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# THE VOTER'S X-RAYS

BY

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II

OF THE NEW JERSEY BAR



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Camden  
N.J.

## PREFACE.

“We are ostracised because our political creed is in advance and our morality higher than that of the people for whom we have given incessant labors.”—*John Bright*.

By the publication of the following lectures, the author does not seek the literary fame of a professional writer, nor the reputation for the framing of mystic sentences which belongs to the college professor or theoretical writer. His effort has been to present truths in a plain American manner, and thereby to enlarge the circle of knowledge concerning our government as divorced from partisan sentiment. The lawyer, the professor and the literary worker have the means at hand to acquire a complete knowledge of the subjects discussed in these lectures. But the man who carries the dinner-pail, the farmer, the laborer and the mechanic have not at hand the means of acquiring a knowledge of the fundamental principles of our government. If the editors have such knowledge, the great majority of them hide their light under a subsidy or behind a party cloud.

Let us dare to believe that a study of these lectures will equip the voter for an intelligent discharge of his duty at the ballot-box. Let us believe, if the reader will pardon this faith, that a close study of the principles collected in these lectures will make the business of the demagogue dangerous to the demagogue. Let us hate poverty as deeply as we hate the injustice of excessive wealth. Let us believe that the battle between the classes and the masses will end when the

latter understand and vote for principles. Let us repudiate the new doctrine that the people are not competent to understand the questions arising in governmental affairs, but, on the contrary, let us believe the people are competent to understand every such question, if they have the means to this end. To give them the means is the design of these lectures.

Reforms must come ; abuses must cease ; the power of the classes must be curbed ; the people must be masters of the classes ; trusts and monopolies must disappear ; the rights of labor and capital must be balanced and adjusted to each other ; the palace must not be allowed to shadow the thousand hovels ; the home must be preserved ; the ballot must be free, and the vote unpurchased.

Let this be our political creed, and let us love such a creed as affectionately as the monopolistic leech loves his millions, every dollar of which is stained with an orphan's tear, a widow's wail, or blackened by the curses of the "tramps."

It is my fervent wish that this creed may become the creed of the people. It may be the suggestions of these lectures shall invite a profounder writer to produce a more comprehensive work for the people of our beloved country.

C. T. A.

*Camden, N. J., Jan. 12, 1897.*

# THE VOTER'S X-RAYS.



## I. INTRODUCTORY.

“Personal success in politics cannot afford to reject the use which may be made of the ignorance and prejudice among the people.”—*John Bright*.

WHEN Cæsar was plotting against the Republic of Rome, he could not keep Cicero quiet. Cicero, the patriot, who was the first to be designated as “Father of his Country,” pleaded with the Romans to save the republic, to perpetuate the constitution. But the Romans had been corrupted. The masses were in abject poverty. A few rich persons absorbed the increase of Roman labor and industry. The system of plundering the masses was continued by bribery at elections. Pompey was unable to maintain order. The elections were scandalously corrupt, and year after year no consuls could be elected on account of turbulence. “In the year 54 before Christ, the rate of interest rose from *four* to *eight* per cent. owing to the demand for ready money to be spent in bribery; one hundred thousand pounds was promised for the vote of the first *centumviri*. Scaurus, who came late into the field, is reported to have satisfied electors, tribe by tribe, at his house.” In the year 53 before Christ, Scipio Metellus ran against Milo for the Prætorship. Bribery and intimidation were carried on to a reckless extent on both sides. Milo and Claudius roamed the streets, each

with an armed gang. No election could be held. There was but one way to keep Cicero quiet—kill him. This was done. An empire was erected upon the ruins of the republic.

Now, if Rome could not maintain a republic against the assaults of classes, with their weapons of bribery and intimidation, how can the United States hope to do so? Our politics are rapidly becoming a business and mercenary affair. Wealth, always selfish and blind to the interests of others, demands legislation for capital. No one is better prepared to speak in this line from experience than is Senator Quay. He is credited with saying to Senator Flinn that his campaign for chairmanship of the Republican State Committee of Pennsylvania cost him \$200,000. Senator Quay deserves credit for his frankness. The celebrated reply to the Dolan interview is as follows :

“My views upon the connection between business and politics were mentioned in a speech at a Republican meeting in Pittsburgh a few days previous to the presidential election. I am opposed to the entire scheme of the National Business Men's League as disclosed by Mr. Dolan. Its basic theory is that organized wealth shall dictate high office, and so take possession of the government. It will be met as stubbornly and overthrown as disastrously as was Bryanism.

“Bryan invoked the masses against the classes. The promoters of this league invoke a class against the masses and all other classes. No league of business men, or other men, based upon wealth or other foundation, can erect a government class in this country. In the United States Senate we have millionaires and business men enough to serve all legitimate purposes. Senators are needed who have no special ties, but who will act for the interests of the country in gross, without special affinities.

“The people most deserving of representation, and

most in need of legislative protection, are the farmers, the small storekeepers, the artisans, the laborers, and I stand by them, and against this so-called league.

“I go into the barricades with the *bourgeoisie* and the men in business. In conclusion, I do not believe that ten per cent. of the business men of the country sympathize with this league. There must be less business and more principle in our politics, else the Republican party and the country will go to wreck.

“The business issues are making our politics sordid and corrupt. The tremendous sums of money furnished by business men—reluctantly in most instances—are polluting the well-springs of our national being.”

As Senator Quay, in 1888, had the distribution of the Wanamaker \$400,000 campaign fund, he knows whereof he speaks. If this republic is to be saved, it must be done through *principles* applied, and not by *principal* utilized in politics and legislation. A business man in politics is all right if he can lose sight of his special interests—if he can learn *principles*, and put them in place of *principal*. “You can reason logically with a business man, but never so conclusively as through his pocket.” A statesman knows of certain principles worthy to be enacted into laws; the business man hatches certain schemes, which he seeks to ripen by laws. Naturally the statesman is for all the people; the business man for his class of the people. The business man is apt to become a politician, not a statesman. The prætorian guards of monopoly in Congress are the business men, or their paid retainers, who are in Congress to attend to their own business. They are not statesmen. The statesman is unselfish; the dollar man cannot be unselfish. The presence of *principal* and the absence of *principle* in our legislation has produced a condition which startles and appalls the patriots of America—3,523,730 persons unemployed

during the year 1890. The following excerpt is from the *Baltimore Herald*:

"It is not an exaggeration to say that from this class of unemployed that of pauperism and criminality is recruited. The man without work must live upon his accumulated savings, must starve, must steal, or must depend upon others. The alternative is a terrible one, and is usually solved by the unfortunate becoming a persistent pauper or criminal."

The *Evening Journal* of St. Louis says :

"Idleness breeds discontent, and discontent breeds violent remonstrance. It is not the fault of the unemployed that they are not at work ; it is not the fault of their starving families at home ; but it is the fault of representatives in Congress who cater to nothing except the wishes of corporations and combines. It is the fault of the President who frowns upon everything calculated to uplift common humanity, and who becomes an obedient servant to the venal vampires who prowl around the White House seeking what they may devour. One thing may be depended upon : there can possibly be no reduction of the misery and poverty now so prevalent so long as laws exist that enable corporations and combinations of capital to conspire for the exploitation of the masses. There can be no millionaires without their corresponding thousands of paupers. When one man becomes fabulously rich, ten thousand must succumb to the ravages of poverty, while no less than half that number become paupers, from which number originates the army of tramps."

Henry Labouchere, the well-known English radical, and editor of London *Truth*, remarks :

"Trusts, monopolies and gambling in railroad stocks have produced a greedy plutocracy which cannot maintain itself long unless it is backed by a large armed force. America's worst product is her dollarocracy. \* \* \* They will sell their souls to any one who brings them into contact with princes, and their daugh-

ters to any one willing to give them a title. The American dollarocracy despise their own country and its institutions, but they fancy their money makes them superior to every one else. Unless the United States is to become a country ruled purely by its plutocratic oligarchy, these worthies must be reduced."

This is as others see us.

The plutocratic classes are always asking the legislatures and Congress for special legislation and privileges, exemptions and protections for the benefit of others. These classes always desire such legislation not for their own benefit, but for the masses. One of the lords in Parliament, in answer to a demand for an exemption, used the following fable :

"Once on a time the birds were gathered together, and amongst them was the owl, bare of plumage. Making himself out to be half dead and frozen, he shiveringly begged feathers from the other birds, and they, moved to pity, gave him feathers all round, until he had been decked in some ugly guise with the plumes of his fellow bipeds. Then a hawk appeared, and a panic amongst the birds followed. They all demanded their feathers again. He refused to give them up. Then each bird took back his own feathers by force, and they escaped the danger, while the owl was more wretchedly callow than before."

The American owls some day will get too many feathers, and force will be used to get them back ; but the fault will be on the owl. In the *New York Mercury* of 1764, this truth was penned :

"History does not furnish an instance of a revolt begun by the people which did not take its rise from oppression."

Our revolt must be at the ballot-box. Education for this revolt ought to be ceaseless until we reform the abuses of government, in spite of "the lawyers and the

men of wealth," and notwithstanding the harvesting classes of wealth cry out that we design "anarchy." Cromwell advised the Long Parliament "to reform abuses, and not to multiply poor men for the benefit of the rich."

I would not have the poor unjust to the rich, nor the rich unjust to the poor; labor should not be an enemy to capital, nor capital the oppressor of labor. It is no crime to walk in the golden radiance of wealth honestly acquired; but wealth accumulated by special privilege and legislation in favor of classes is criminal. The getters of such criminal wealth resort to any means for its acquisition. They corrupt the electors, rule the people, and, if unchecked, will destroy the republic. Let every American write upon the table of his heart the following words of the immortal Lincoln:

"Yes, we may all congratulate ourselves that this cruel war is nearly over. It has cost a vast amount of treasure and blood. It has indeed been a trying hour for the republic, but I see in the near future a crisis approaching that unnerves me, and causes me to tremble for the safety of the country. As a result of the war corporations have been enthroned, and an era of corruption in high places will follow, and the money power of the country will endeavor to prolong its reign by working upon the prejudices of the people until all wealth is aggregated in a few hands, and the republic is destroyed. I feel at this moment more anxiety for the safety of the country than ever before, even in the midst of war."

If you study the debates of the patriots in the convention which framed our Constitution you will learn that the prospect of a few men becoming dangerously rich afforded those government-builders much anxiety. They had before them the example of other ruined republics caused by the selfishness and corruption of riches.

How could they provide against a like cause producing a like effect? On July 19, 1787, Mr. Gouverneur Morris, in one of the debates of the Constitutional Convention, said :

“It is necessary, then, that the executive magistrate should be the guardian of the people, even of the lower classes, against legislative tyranny, against the great and wealthy, who in the course of things will necessarily compose the legislative body. Wealth tends to corrupt the mind, to nourish its love of power, and to stimulate it to oppression. History proves this to be the spirit of the opulent.”

Had Mr. Morris known then of the vast combinations of wealth to be made, he would have abandoned the idea of a republic. Our Constitution is entirely silent upon trusts and combines ; monopolies were unlawful at common law. The framers of the Constitution, in framing such instrument, regarded the common law. Corporations are not necessarily monopolies. Corporations began with the civil law in Rome, have continued to be formed, and will continue, and ought to continue. They are great mediums for good or evil. Being creatures of law, the law must control and regulate them for general good and public welfare. The limit of capital should be prescribed, and combinations prohibited, and such prohibition rigidly and sacredly enforced.

It is not corporations, rich individuals or wealth that threaten the destruction of our republic ; it is the failure of the government to control and regulate these forces. The weakness of the individual in the presence of great wealth and its power is communicated to the government ; and hence wealth rules because feeble men are selected to make and execute our laws. Right here very many fail to distinguish between the fault of those selected to govern and the government. The

objection is to the persons who control the government, and not to the government itself. The clamor for change of the form or structure of the government comes chiefly from those who do not distinguish between the form of government and those who execute it. Our government is all right.

“When the form of government becomes destructive of the rights of life, liberty and pursuit of happiness, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundations on such principles as to them shall seem most likely to effect their safety and happiness. \* \* \* But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce the government under absolute despotism, it is their right, it is their duty, to throw off such government and provide new guards for future security.”

The form of government of the United States is the best the world has ever known. It is used, however, by selfish and unpatriotic lawmakers and executives for the advancement of special interests. What the framers of the Constitution feared would come to pass, has come to pass. The fault is in putting weak and toolish men into office. These men have not the strength to enforce the principles of right. They are only strong when serving the interests of their masters.

Political parties make platforms professing to espouse certain principles of good rule, but the special and selfish interests prevent the platform from being enforced. We change the names of the rulers and lawmakers, but not their masters. The masters of our rulers and lawmakers have not been changed in the past thirty-six years. The money power and monopolistic masters have been fooling the people of the United States during the past thirty-six years by cries of protection to American labor, specie resumption,

civil service reform, sectionalism, force-bills, honest elections, honest dollars and preservation of the nation's integrity. Most of these are desirable ; but those who make the loudest outcry on behalf of them are like those who pray in public places. The *preyers* are our masters, and have been *preying* on our industry, while they conceal their hypocrisy under the cry for the above named reforms and principles. They pollute the temple of government.

On the other hand, those who do not realize the importance of real reforms by strong-minded patriots and statesmen who have no masters, grow impatient and become advocates of visionary schemes which border upon anarchy. Without affirming or denying the principles of *ultra* reformers who would abolish the right of private property, I submit, such a reform means abolition of one of the chief corner-stones of government, and takes away the incentive to individual effort and progress. The right of private property is as sacred as is the right of personal liberty. Government should regulate them, not abolish them. If it is not for the general welfare that an individual possesses ten millions of dollars, then the government has the power to say so, and limit the individual wealth. When a person reaches such limit, then he or she can cease work, or accumulate for the benefit of state or nation. If you affirm that this is confiscation, I reply, it is within the power of government to confiscate private greed for public good. The correct statement is that government has the right to destroy the means of, and incentive to, getting dishonest wealth. If private individuals make warfare on society, the latter has the right to resist such warfare, and to confiscate the means of such warfare. If two or more persons conspire to injure

society, it is a crime ; if one person uses the same means the two or more conspirators would use for the accomplishment of the same ends, is it any less criminal? The law forbids one to maintain a nuisance, but allows one to hold so much wealth that such holder is dangerous to society. Concentration and dangerous accumulation of wealth can be prevented by limitation of wealth.

I have no disposition to invoke retribution upon the extremely wealthy monopolists; but this proposition can be set down as undeniably true—*that the millionaire monopolist is always a large investor in legislation.* The right of private property is not inconsistent with the philosopher's right to the use of the earth. Property in land means the right of the holder thereof to enjoy the fruits of his own labor. The right of society to resume possession for public good includes the right of society to limit the quantity of possession for such public good. The failure of our government to make these limitations is wrong. The way to right this wrong is to pass a law fixing a just limit, not to strike at the foundations of society and government by attempting to abolish the right of private property. The sentiment of the great Burke is in point :

“Government is a practical thing, made for the happiness of mankind, and not to furnish a spectacle of uniformity to gratify schemes of visionary politicians. The business of those called to administer the government is to rule, not to wrangle.”

Dr. Story says of the framers of the Constitution of the United States that they “knew the besetting sin of republics is a restlessness of temperament, and a spirit of discontent at slight evils.”

I now want to present to my readers the most

eloquent paragraph that ever human pen put on paper. It is from the same Dr. Story :

“If these commentaries shall but inspire the rising generation with a more ardent love of their country, an unquenchable thirst for liberty, and a profound reverence for the Constitution and the Union, then they will have accomplished all that their author ought to desire. Let the American youth never forget that they possess a noble inheritance bought by the toils and sufferings and blood of their ancestors; and capable, if wisely improved, and faithfully guarded, of transmitting to their latest posterity all the substantial blessings of life, the peaceful enjoyment of liberty, property, religion, and independence. The structure has been erected by architects of consummate skill and fidelity—its foundations are solid; its compartments are beautiful, as well as useful; its arrangements are full of wisdom and order; and its defenses are impregnable from without. It has been reared for immortality, if the work of man may justly aspire to such a title. It may, nevertheless, perish in an hour by the folly, or corruption, or negligence of its only keepers, the people. Republics are created by the virtue, public spirit and intelligence of the citizens. They fall when the wise are banished from public councils because they dare to be honest, and the profligate are rewarded because they flatter the people in order to betray them.”



## II. THERE SHOULD BE NO PRIVATE PROFIT FROM PUBLIC NECESSITIES.

TO say a wrong is committed by authority of law sounds like a contradiction of terms. A fact must have a name in order to note it from one mind to another. It is a fact that the farmer, producer and laborer do not take a just share of the fruits of their labor.

By just laws, and the use of God-given faculties, each would take a just share. For the products of my hands or brains I would get an equal amount of products from the hands or brains of you. By statutes which interfere with, and operate against, the just law, I am enabled to take more of the fruits of your labor with your hands or brains than you can get from me. These statutes impose unequal burdens, and confer unequal privileges. The result is, one gets more than he should get, and that by means of a filching system, colorably legal, but in truth wrong. It is the taking of another's property without just reward, and the felonious intent wrapped up in a so-called law.

The law used to read : "Thou shalt not steal." It now reads : "Thou shalt not steal except by color of law." Stealing without color of law sends the thief to the prison; stealing by color of law gives the thief a palace.

The chief aim of a government ought to be justice. Justice renders unto every one his due, and permits no one to take more than his due. A government under which one can take or exact more than his due is a failure. A government under which one can steal, and then hide behind a supposed law, or system of law, is an engine of injustice.

The government of the United States of America was formed to establish justice and to provide for the general welfare. It is just beginning to dawn upon thoughtful Americans that our government is not doing justice nor promoting the general welfare. It is true, if facts are evidence of truth, that justice is not triumphant, and the particular welfare of classes is supplanting the general welfare of the masses. The instrument of the mischief is called law. I name it perversion of law.

The evidence of the perversion will be found upon our State and national statute books, and in the opinions of learned judges.

The people are the sovereign power. You exercise your sovereign power—the law-making power—through representatives, legislators and Congressmen, together with a chief executive, the Governor of a State, or the President of the United States. They all have masters. These masters are not the people, but a few of the people, who delegate to themselves, first, to look after their own interests, and after their own interests are well and securely protected, then they look after the interests of all the people. The trouble is that the few, naturally, leave little for the many. It is during political campaigns that the interests of all the people are taken care of by the few; after the campaign is over the few take their pay for the arduous work and expense of having cared for the interests of the masses.

Special interests have at the halls of legislation special agents, to get for themselves special privileges and advantages. Four-fifths of our legislators are unable to form a correct opinion, or if they do form a correct opinion, they have not the moral courage to vote it or express it. The special agent for the special interest makes, in various ways, the opinion for our salary-drawing legislators, and they vote according to orders. One of the chief reasons why I am a believer in woman suffrage is this: If women had the right to vote, as they instinctively hate men who are moral cowards, in order to get the female vote a man would have to be a pretty decent sort of a fellow. In his letter to Baron Montesquieu, Helvetius said: “I know of only two kinds of governments, the good and the bad; the good, which are yet to be formed; and the bad, the

grand secret of which is to draw, by a variety of means, the money of the government into the pockets of the rulers."

I attack monopolies as the foremost of all the thieves of human rights. Soulless, heartless, and devoid of individual responsibility, there is no wrong to humanity monopoly will not inflict, if to its interest so to do.

Monopoly is the Pontius Pilate of liberty, equality and humanity. The teachings of Christ are daily crucified by monopoly. Monopolists sing and pray on Sunday ; the rest of the week they contrive hell for their fellow-men. Were Christ on earth right now, what do you think would be his opinion of Christian monopolists? Do you think the language he applied to the hypocrites of his day strong enough for the monopolistic leeches of our day? The largest portion of the fruit of monopoly is stolen property. The theft is committed by destroying the rights and opportunities of neighbors. It is legalized pestilence, spreading paralysis and death to individual energy.

Under the reign of monopoly the man disappears, and in his place you have a heartless machine of men. We often strike down political machines, but we have as yet been unable to strike down the monopolistic machine. No honest, Christian, neighbor-loving man can, in justice to his soul, afford to filch by dividends any more than he can rightly steal with his hands.

Men join with others in doing wrongs at which they would recoil and shudder if asked to do the same wrong themselves. In the first case, they see and feel no personal responsibility ; in the second, their cowardice or conscience directs their conduct.

There exist two classes of monopolies: 1. Natural monopolies, or the ownership and control of light,

water and highways by private corporations for gain.

2. Trusts, or associations of individuals or corporations in one body for more compact and effective work to its own ends.

It ought to startle every individual when it dawns upon him that the public light, which everybody should have, and the water, which is an indispensable necessity of nature, are furnished him by private corporations. These private corporations squeeze out of the individual every cent that can by any pretense be had.

Private greed supplants public good. One of the functions of municipal government is sold to private persons or corporations in order that the municipality and its inhabitants may be plundered. It would be just as logical and compatible to sell the police protection, or place its supply in the hands of private corporations. There would be just the same sense in the fire department being owned and controlled by private corporations. I served once upon a committee to investigate the cost and revenues of a municipal lighting plant. The investigation demonstrated that immense sums are taken out of the pockets of the people by private corporations and individuals on false statements as to cost, expenses and interest on capital of their private lighting plants. It is the same with water-supply plants. Very many municipal governments do own their water-works; some the lighting plants and sewerage system; but in our country the ownership of public conveyances is generally in private hands. What Glasgow has done by owning its tramways, every city in this country can do by owning the street railways.

When you want to get from one point of a city to another point in that city, the municipality should furnish you the means, just as it furnishes you police

protection or light. The burden of this duty ought to be just what is necessary to pay for and maintain such service. Out of a demand for a common and public necessity no private leech ought to be allowed to speculate, and take private profit for private greed. The toll-gate is being taken down everywhere. The highways should be free, or taxed only by the public to the extent that the public service demands. If one wants to drive over a public road, he takes his conveyance and does so. Now, add the co-relative idea, if one has no conveyance, and, in common with the greater number, is unable to own one, why not the public furnish it, and for common good take what pay is necessary to maintain it?

What is true of the highways of the city, is also true of the highways of the country. The railways have become public burdens as well as public conveniences. The sums of money taken from the people to pay high salaries, dividends on watered stock, and excessive rates, are appalling robberies. Railroads scarcely ever pay until they have been through the hands of a receiver and the small stockholder plundered of his stock. Private ownership of railroads is a stake for which speculators and gamblers continually play. They are operated on the principle of the biggest returns for the least service, and these returns made to pockets of the fewest persons.

What is true of railroads is true of the telegraph and telephone system. If you want to send a message by letter from Camden to New York or San Francisco, the government performs this service at a fixed charge. You participate in fixing that charge. The service is performed with great diligence and safety. If you desire a speedier communication you resort to the tele-

phone or telegraph. You pay a price fixed by private greed, with no reference to any other element. Now, tell me why the government transmits the letter message and not the message by telephone or telegraph. Simply because people have never been aroused to a sense of the plunder private greed takes, by means of private monopoly, out of man's natural necessities and society's requirements.

Do you say private capital has constructed and developed these great railway and telegraph and telephone systems? I admit it. But what right does this give them superior to public right? Stop and think. The ownership of every piece of property in the United States is conditional. You have a deed for a house and lot or a farm. You say, "It is mine." Well, for how long? On what condition? Why, just so long as the public does not want to use your house and lot or farm. The public—the government for public use—has the legal and constitutional right to take from any person such property as it may need for public use, upon making just compensation. If it is right that your home can be taken from you by a railroad company for public use, for private gain, why can you say it is wrong to take for just compensation private property for public use, for public gain?

Would it pay the public? It pays private capital, and it pays large salaries. The telephone, telegraph and railroads, amid speculations and gambling, build up the largest fortunes, and create the millions in private hands which are used for public corruption and more extensive plunder of the masses.

If our government owned and operated the telephone, the telegraph and the railway systems of the United States, the people would be rid of tariff tax, and per-

haps every other form of tax. The cost of service to the people of these great conveniences and necessities could be reduced fifty per cent., and taxes and the vexatious question of taxation would largely disappear. The taxation of mankind for the benefit of men is the worst feudalism ever inflicted upon the world. There has never been a moment of the world's history when it has been right to sell or give away a franchise to afford private greed an opportunity to plunder private individuals or assault public treasuries. Whence comes the right of one man to get a franchise from the public which enables him to take bread from the lips of my child, that he may please the palate of his own child with tropical fruits? Why plant these monopolies in the soil?

Who of us possess the moral courage and broad and deep sympathy with humanity sufficiently to join in this battle for human rights against the unjust takers of the fruits of labor, the oppressors of the poor?

Suppose the railroads, street railways, telegraph and telephone systems had existed when these United States were formed, and the Constitution was adopted, do you think they would have been left untouched by those great patriots and statesmen?

Do you think that if those great men, founding a republic and writing its organic law, could have seen this vast country spider-webbed with railroads, telegraphs and telephones, they would have allowed the spiders to build their webs and hang their gauze meshes over every street and highway in the land? They would have seen at a glance these are means of public comfort and necessity. They are exactly like the king's highway and post-road; they belong to all the public, and for the same reason that it is not good government to allow

private corporations for private greed to own the public highway or post-roads, so it is not right to allow them to own the railroad, or telegraph, or telephone. They would have seen that it was wrong, and is now wrong, to permit the railroad, telegraph and telephone spiders to continue the invitation so alluring, "Come into my parlor."

What the founders of the government would have done to erect this government, we should do in order to perpetuate it.

To acquire these properties, the government could get the money at three or four per cent. per annum, or issue notes or bonds bearing the same amount of interest. We have a start then on three per cent. for capital, while many of these roads and companies pay dividends equal to twelve per cent. per annum, and that on watered stock and fictitious values, and after paying high and monstrous salaries.

With no fabulous salaries to be paid to six hundred presidents and their staffs and high-priced managers, and no waste in gambling and competition; no attorneys and solicitors; no immense, extraordinary expenses for political campaigns and "*explanations*" for Congressmen and legislators; no expensive advertisements; no strikes, passes, rebates, commissions and dividends; no large damages paid to a few injured parties, but every injured person, where the injury results from negligence of employes, would be allowed a proper amount for the injury, as a pension, or a payment at once—then, I say, it is not inaccurate to state that fifty per cent. of the burden of these monopoly rates could be lifted from the people; in a quarter of a century the plants could all be paid for. Not only so; the revenue derived from these sources would pay the expenses of the Federal

government, and not a dollar of tax be required from the individual.

At this time the Chicago business men are back of a movement to have a law enacted in Illinois fixing the rate at two cents per mile for passengers on steam railroads. The report of earnings shows they can carry passengers for one-fourth cent per mile and still make a reasonable profit.

The saving to the people of court expenses occasioned by railroad litigation would be marvelous.

First: The litigation between railroads constitutes a large share of the occupation of courts.

Secondly: The litigation between individuals and railroads. In some localities two-thirds of the time of the circuit courts is occupied with damage suits against railroad, street railway and telephone or telegraph companies. Day after day the courts are engaged in piling up expenses to be paid by the people, while hearing and determining railroad litigation.

Look at the calendars of our superior courts and see how they are swollen with the same class of litigation.

If the government owned all these fertile fields of litigation it could at once abolish the litigation. Claims for damages could be placed under the pension department or a special department.

The cry now goes up: "Give us more courts and more judges." This means more salary and more tax. I meet the cry: "Abolish the bones of contention and stop the fighting." Wipe out the cause and away goes the effect.

Look at the struggle to get taxes from the railroad, telegraph and telephone companies. Sum up the appalling expense incurred in the effort to tax them and to collect the taxes from them. All this waste can be

saved by simply giving to our government a scope commensurate with the necessities of the governed.

What other governments have done and are doing the United States can do.

There are fifty-seven governments owning in whole or in part the railroads on their territory. There are sixty-nine governments owning in whole or in part the telegraphs in their country.

It is conservatively estimated that government ownership of railroads by the United States *would save to the public six hundred and sixty-two million dollars a year.* Thus the saving alone would be two hundred and sixty-two millions a year more than the Federal taxes amount to. Count the savings of trolley and street railways from the same reason—municipal government ownership—and you have in savings to the people by such ownership enough to pay the whole burden of tax of \$900,000,000 for Federal, State and local purposes.

In 1870 the British government purchased from private companies the telegraphs for the sum of £11,000,000 (\$53,500,000). This was an excessive valuation.

This is what has been done :

Before the purchase there were 3,000 offices ; in 1893 there were 10,000.

In 1870 there were annually sent 7,000,000 telegrams, at an average cost of fifty-four cents per message ; in 1893 there were sent 70,000,000, at an average cost per message of fifteen cents.

Now, compare these figures with what was done in this free and equal-rights-and-privileges country, the United States. The private telegraph companies of the United States for 1893 sent 66,591,858 messages at an average cost of 31.2 cents per message ; an acknowl-

edged profit of 11.3 cents per message. In 1895 the Western Union Company sent 58,307,715 messages, received \$22,218,019, and made a profit of \$6,141,389, being a profit of 10.5 cents on each message.

The New York and Brooklyn bridge shows what municipal ownership can do for the people. It cost \$15,000,000. Tolls on the railroad cost 2½ cents, foot passengers free from June 1, 1891. Six hundred and fifty people are employed on the bridge. Engineers get \$4.00 for eight hours; on the Manhattan Elevated they only get \$3.50 for nine hours. In the same proportion are other employes paid, and the railroad men have to furnish their own uniforms, while such is not the case with the bridge employes. Two and one-half millions of dollars have been turned over to the two cities from the earnings of the bridge.

The American Bell Telephone Company in 1894 paid its stockholders \$3,000,000 on a capital of \$20,000,000. The net earnings of the company were \$3,123,785. Its subscribers have increased from 171,454 in 1889 to 243,432 in 1895. It is comparatively new, and growing in popularity.

How long will our people continue to furnish the means of their own enslavement? How long will the people continue to grumble and groan at high taxes, and yet still vote for higher taxation? The plunder by private corporations owning gas or electric light plants is very common information. The saving to the people from municipal ownership is very large. I have had an opportunity to witness the truth of this statement during my investigation. Any one can ascertain the same truth by either writing to or visiting municipalities owning their plants. But when you endeavor to secure information from private companies, they

look aghast, and maybe a polite official will tell you to "mind your own business."

The following table I believe to be absolutely true :

	EACH ARC LIGHT, YEARLY. Municipal Plant.	BEFORE. Private Com'y.
Bangor, Me.....	\$48.00	\$150.00
Peabody, Mass.....	62.00	185.00
Huntington, Ill.....	50.00	146.00
Bloomington, Ill.....	51.00	111.00
Marshalltown, Ia.....	27.00	125.00

This table can be extended, and the same plundering will be evidenced by every town or city which you investigate, where private corporations for private greed operate the plants.

The cause of all the people against the plunderers of the people is righteous.

What of the great army of employes of the railroad, telegraph and telephone companies? Well, what about the great army of employes in the Postoffice Department? They haven't hurt the government any, have they? Civil service has made their political action free and independent. Civil service can do the same for all other government employes, no matter how vast the numbers. The tenure of service shall be dependent upon fidelity of service. Promotions shall be based upon length of tenure and fitness. One more step: When the employe, by reason of age, sickness or accident is unfit for further service, then the great heart of the government shall pension him.

Before quitting this branch of my lecture, there are two points to which I invite attention.

First: The original railway idea.

Second: The earnings and profits from franchises rightly belong to all the people, for the use of all the people.

The original idea of the railway was that it should be an iron or wooden highway, upon which any person could run his own car. It was to be a railed turnpike, and the owner of the highway was to have the right to collect toll. This was found to be impracticable, and then the idea was easily suggested that the owner of the tracks should also own and rent the cars. I mention this to show that the principle of the public highway was to be maintained. This idea also is the foundation for the other, viz.: That the earnings on a public highway ought to belong to the public, and private interest should not be allowed to intervene so as to use public comforts and necessities for private greed and profit. The government does but half govern when half its functions are in private hands and used for private plunder.



### III. TRUSTS.

TRUSTS or monopolies are the most effective instruments for wholesale larceny. What is a trust? A trust is a fashionable name for a criminal conspiracy to put up prices of necessities, and to destroy individualism. It is a combination of men and capital for the purpose of making artificial economic laws. The object is to get greater gains upon the capital acquired and combined than natural laws would permit. The method is to limit the supply or create fictitious demands. The result is an arbitrary price. The means used are all mean. They buy up individual concerns, crush out those which cannot be bought; boycott, blackmail, persecution, bribery and illegality constitute the trust code.

The celebrated jurist, Bacon, wrote of monopolies:

“Monopolies are void by the common law, as being against the freedom of trade, discouraging labor and industry, restraining persons from gaining an honest livelihood by a lawful employment, and putting it in the power of particular persons to set what prices they please upon a commodity; all of which are manifest inconveniences to the public.”—*Bacon's Abridgment, Vol. IV.*

They are the companions of the tariff pirates—highwaymen on the roads of social and material progress.

It is estimated there are 139 trusts in the United States. This means 139 pilferers; 139 conspiracies against every honest man; 139 combinations against each individual.

To bring before the mind the extensive operations of these trusts, I take from the *Handbook of Currency and Wealth*, by Mr. George B. Waldron, the description of the “Trustful Mr. Smith:”

“Mr. Herbert Spencer Individualist Smith, who believes that the trusts can be safely left to look after the interests of the people, wakens early one morning, and, taking a trust match from a trust holder, he strikes it across a piece of trust emery paper, and holds it up to his trust watch to see whether it is time to arise. Springing from his trust bedstead, with trust wire mattress, he steps upon a trust rug, and walks across a trust carpet, stumbling against a trust chair on his way. Taking off the trust lamp chimney, he lights a trust lamp, filled with trust oil.

“The morning is chilly, so he opens the trust register and lets in the hot air from the trust furnace, heated with trust coal. Going to the bath-room, he turns on the trust water, heated by a trust range, and running through trust pipes into a trust bath-tub. Then, using a trust sponge, and a piece of trust soap, he completes his morning bath.

“This done, he proceeds to dress, drawing on his trust socks and trust shoes, made of trust leather, not

neglecting to securely fasten his trust collar and trust cuffs to his trust shirt. He now raises the trust window-shades, and, raising up the trust window-sash, he opens the trust window-blinds, and secures them with trust fastenings. Then he closes the window, and looks through the trust glass at the trust gas still burning in the street below, while he opens his trust penknife and polishes his nails. Taking a last look in the trust mirror, he opens the trust door of his bed-room and descends to the dining-room.

"He seats himself at the trust table, covered with trust linen, and eats his trust-ground oatmeal, cooked in a trust dish, and served in a trust saucer, with trust sugar and trust milk. Then he takes up a trust carving-knife, cuts a piece of trust beefsteak, puts it on his trust plate, and seasons it with trust salt. Now, from a trust spoon, he sips trust coffee, while he munches a piece of bread made from trust flour.

"Breakfast over, he rushes into the hallway, and puts on his trust hat and trust gloves, preparatory to going to the city. It is storming, so he puts on his trust rubbers, and takes down his trust umbrella from a trust rack. Entering the trust railway station, he boards a trust train, taking a seat in a trust-made car, which moves on trust rails laid on trust steel sleepers. A trust newsboy supplies him with the morning paper, and he reads the trust-collected news, brought in by trust telegraph, and printed with trust type.

"He spends the morning in his office dictating to a stenographer, who writes with a trust lead-pencil, and then uses a trust typewriter for trust letters, written on trust paper, and enclosed in trust envelopes. For his noon lunch he takes trust oysters with trust crackers; then he steps into a trust saloon, and buys a trust cigar; he closes with a trust glass of trust whisky, which so unsettles his mind that in crossing the trust-asphalt-paved street he falls before the trust street-car, and is crushed beneath the trust street-car upon trust wheels.

"A trust telephone is used to summon the surgeon, who uses trust restoratives, and, then administering

trust chloroform, he performs an operation with trust surgical instruments.

“Not surviving the injury, Mr. Smith’s body is given in charge of a trust undertaker, who puts on a trust shroud, and puts him in a trust casket.

“Mr. Herbert Spencer Individualist Smith finally rests in peace beneath a trust tombstone.”

Now, see how these trusts work in the United States :

In 1880 there were 1,943 establishments engaged in the manufacturing of agricultural implements ; the profit per establishment, \$11,194 ; in 1890 there were 910 establishments engaged in the same line of business, with a profit per establishment of \$30,612.

Again : In 1880 there were 1,990 establishments engaged in the manufacture of woolen goods ; the capital per establishment was \$48,289. In 1890 there were 1,311 of these establishments, with capital per establishment of \$99,916.

One more illustration : In 1880 there were 5,424 leather establishments ; the profit per establishment was \$4,682 ; capital, \$12,371. In 1890 there were 1,596 of these establishments, the profits per establishment being \$12,745 ; capital, \$50,916

When you thus permit wealth to be concentrated, decrease small or individual establishments, and then double, treble and quadruple profits, you unjustly take from the masses, and add to the wealth of the capitalistic classes. If the present methods are continued and the consequent increase in the ranks of dependents, the swelling of the army bidding for work to earn enough for the merest necessities, the surplus over the necessities all taxed into the pockets of the rich, how long do you say this republic can last?

Mr. Shearman, who is exceedingly conservative, says that these United States are now owned by 250,000

persons. If the present methods of plunder are continued, there will soon come a time when a very few will own this entire country.

Mr. Holmes thinks Mr. Shearman has underestimated the wealth of the very rich men. Mr. Charles B. Spohr, a law lecturer of New York City, and associate editor of the *Outlook*, shows that 225,000 families own 54.8 per cent. of all the wealth of this country ; they have \$32,880,000,000 ; the rest of the wealth is distributed between 6,135,000 families. You then have 6,250,000 families, or fifty per cent. of the people of the United States, as the very poor, and who own nothing.

Mr. Spohr's comment should be lodged in the brain of every thoughtful American :

“Whatever error there is in this table is demonstrably on the side of underestimating the present concentration of wealth, for in the returns made to the surrogates the debts are not yet deducted from the value of the estates, and it is the small house-owners and farmers, as well as the small shopkeepers, whose debts cover the more considerable portion of their holdings. We must recognize, therefore, that the nation's vast wealth does not bring comfort and independence to the rank and file of the people. If the nation's wealth is to mean the nation's well-being, the rank and file of the people must reverse the policies which the rich and their tools have thrust upon them.”

Think of it! 4,047 millionaires. Twenty-five million persons do not own as much as the law of exemption allows them!

Some preachers have endeavored to point out an economic principle in favor of trusts. There can be no economic principle on which to base a system which destroys honest individual effort, and robs the masses for the benefit of the few.

There is a moral side to these questions. The Chris-

tian ministers are failing in their duty. Men are tempted to sell their souls for the world. On the mountain of greed, the trust devil says: "Worship me, and all the fields of labor, and fruits of the toiling masses, will I give unto you." On the pinnacle of fame the statesmen hear the satanic voice of monopoly and trust flatter them as gods, and they cast themselves down into the arms of the wingless angels of greedy trusts and monopolies.

When the suggestions of trusts being for the best interests of humanity begin to drop from the pulpit, I am reminded, there is no sin against humanity which the devil can't get justified from the pew, the pulpit or the editorial sanctum.

However, it is due to the *Philadelphia Record* to say that, while its editorial columns advocate monopoly-money and methods, it often sets a truth in type, as is the following :

"Mr. Cockran is greatly mistaken, too, in assuming that the party defeated at the recent elections will remain in the field as the party of 'anarchy and repudiation,' as he calls it. That party is already falling asunder from pressure within and without. But it will depend upon the Republicans in the next Congress whether all the elements of opposition, including the sound-money Democrats, shall be formed into a mighty organization to curb the trusts and monopolies, which are preparing for a new campaign of spoils under the Republican wing. Whoever shall encourage the Republican party in passing a new tariff for the benefit of these combinations in trade will not be its sincere well-wisher, nor will he serve the public cause, for good government could not survive the triumph of the trusts and monopolies in this or any other country."

The blow at trusts and monopolies must be at their roots. They were crimes at common law; they are

crimes now. Let Congress fix a penalty and imprisonment on the person or persons organizing or carrying on a trust. A little law saying ten years in prison, and then trusts will soon disappear.



#### IV. THE TARIFF SWINDLE.

TO my mind it appears that the tariff in the nineteenth century has not lost the practical attributes that accompanied its birth. A tariff is a tax upon consumption, and a popular tax, because you don't know you are paying it. It is a levy meant to be paid by foreigners, but actually paid by those who bask in its supposed blessings, because it adds to the price of the article. The rich and poor successively cry or laugh at its humbugs. When the rich praise it, the poor curse it. Its blessings are always spread broadcast just before the election of Congressmen; it curses and blights the breakfast and supper of the poor after election.

Tariff upon necessities bears ten times harder upon the poor man than upon the rich. The tramp and inmates of the almshouses are the only persons too poor to pay the tariff tax. It is a tax upon frugality. If a poor man wants to save some of his earnings, the stealthy and unseen hand of the tariff-tax gatherer is run into his savings bank. What he pays for tariff on his sugar, blankets, clothing and other necessities, he might, but for the tariff tax, add to his savings.

The gross expense of the people's living is estimated at \$8,000,000,000 per year. Tariff is fixed pro rata upon this sum.

The greatest number consume the largest quantity,

and, therefore, pay the largest share of the tariff. The farmers pay twenty-five per cent. of the tariff tax and tariff burdens. There are 4,135,000 families in the United States that live on an income of less than \$400 per year, and 2,622,516 families that live on less than \$600 per year. It will be seen at a glance these families must bear the greatest amount of tariff-tax, as they consume the most of the necessities of life. To make a tariff produce revenue, its burdens must be laid upon necessities. The 4,000 millionaires constitute but a very small portion of our population and consumers, and hence bear but a slight proportion of the tariff robbery.

We export agricultural productions, and do not import them. How, then, can the tariff benefit the farmer? He can't tell. No one else can tell. Tariff is meant to prevent trade, and not cultivate trade relations. "Buy of me, but I want tribute to buy of you, or a tax high enough to prevent you selling to me," says the tariff.

But the Farmers' National Congress, which recently met at Indianapolis, joins in the demand for bounties and tax on wool. The Executive Committee of the National Grange demands: "There should be not only sufficient duties levied to build up trade and commerce of a nation, and fulfill the highest functions of a government, but it may also become necessary to pay bounties in order to maintain a proper relation among all industries of a nation." The end they propose could be reached with more speed and certainty if they would sink every cargo as it approached our shores.

In one breath the farmers cry for more tax upon themselves and the nation, and in the next breath they wail over the high taxes. They want to build up trade

and commerce by preventing trade and commerce through the high duties.

The farmers now pay on an average 30 per cent. of the real estate taxes, 25 per cent. of the personal property tax, and 25 per cent. of the tariff tax and private plunder connected with it. How can they be so blind to their own welfare!

Of the added cost to the consumer of a tariffed article, only about one-fourth gets into the United States treasury. The dealer's profits are equal to 25 per cent. added.

This tax benefits those who cry loudest for its changes. When a vast store of goods are produced under a low tariff, or imported under it, then these sharks cry out for higher tariff. Then they unload, and make vast sums of money. When they have unloaded, their cry is, "We must have a tariff revision," that they may load up again at low prices. Then there is a repetition of the cry for high tariff. The farmer and the poor man don't have the capital with which to load up, and they get left.

I most unreservedly indorse the conclusions of Thomas Shearman: "(1) Tariff is a levy of tribute upon the masses for the direct profit of the wealthy classes, and (2) it results in enormous taxation of the poor, and almost entire exemption of the rich."

But, they say, the laborers must be protected against the pauper-labor of Europe.

It is an indisputable fact that for the last twenty-five years the wages of our laborers have been growing painfully nearer to those of the laborers of Europe. Protection has not kept up wages.

The real way of protecting our laborers against cheaper labor is by preventing that labor from coming

to this country. Those who shout loudest for protection of American labor against Europe's cheap labor are most bitterly opposed to prohibition of immigration, or restricted immigration. Labor unions are a better protection to American laborers than protective tariffs. America for Americans is still better.

Protection does not directly affect, nor do I believe indirectly, the wages of the carpenter, engineer, fireman, brakeman, blacksmith, mason, bricklayer, butcher, waiter, barber, printer, clerk, bartender, mail-carrier, policeman, motorman, conductor, salesman, author, actor, lawyer, doctor, preacher or farm-laborer. *It certainly don't protect the scavenger against competition of cheap foreign labor.* It is a heavier burden on the married man than on the single man, as he has more mouths to feed, and more backs to clothe.

Is free trade right? Yes; trade as free as the air! But how can we get revenue? This used to puzzle me. I have solved the problem to the satisfaction of my own mind. By one or two methods revenue can be raised—revenue for Federal, local and State purposes:

1. Either by municipal, State and Federal ownership and operation of every franchise, or by the incomes from franchises. Let the people retake these franchises which have been bartered or given away.

2. Or by direct and single tax upon rents or land values and incomes. These methods would accomplish this result: *The burden of government would be placed on those most able to bear it.* It can be demonstrated to a mathematical certainty that the tax received from such methods will be light upon those most able to bear it. Under the first, every one having the use of the franchise would pay for such use as they now pay for sending a letter by mail; under the second, the poor and

landless would be entirely free from the burden of taxation. The vast burden of \$900,000,000 for Federal and local taxes in the United States, as now assessed, imposes a duty or levy of about 19 per cent. on expenses, and about 5 per cent. on the savings of the rich, while it is about 80 per cent. on the poor. Add the immense plunder of private corporations holding public franchises, and that of trusts and monopolies and money-changers, maintaining scarce and dear money, and then ask, *why does wealth concentrate in the hands of the few?* Can it help concentrating under the present plundering methods? While the poor like it, can you change it? We are educating the masses to believe that they must be poor, that four thousand poor daily laborers are members of one rich man's belly. We are educating farmers to believe that peasantry and tenantry are better than the ownership of farms.

It is conceded that there is no way to stop the tariff agitation as long as we keep a system by which we plunder one class for the benefit of another. It soon follows that the plucked class loses all its feathers, and then gets cold and begins to squall. Then there is an effort to get back the lost feathers. What is the sensible thing to do? Just abolish the monster pirate. Porter's celebrated motto was, "Free trade and sailors' rights." My motto is, "Free trade and humanity's rights. Monopolists and tariff pirates offend them." Let us prepare this country as speedily as possible for a just system of taxation, and get rid of tariff plunder.

When the plunderers get a policy to suit them, then they advise, "*We want rest.*" When you are plucking the feathers and down off the old goose, you want the goose to rest. While you are shearing the old ram, you want him to have a perfect rest. You rest while you

are plucked or sheared. While the pickpockets are in your pocket or house, they prefer you should rest. Yes, *rest*, while your property and your rights are *wrested* from you.

Daniel Webster, in opposing the tariff act of 1824, said :

“One great object proposed was the increase of the home market for consumption of agricultural products, but what provisions of the bill were expected to produce this were not stated.”

James G. Blaine said of a tariff law :

“There was not a letter, syllable, word or sentence in it to make a market for a pound of pork or bushel of wheat.”

Those who profit by plunder always appeal to two classes: The laboring men and the farmers. These two classes have the majority of the votes, hence they must be convinced or bribed.

To sum up the tariff nonsense, this is the proposition : We must have a tariff to get revenue ; we must have a tariff to protect the manufacturer or laborer from competition of cheap foreign goods and men ; to get revenue we must import goods off of which the required revenue is to be collected ; after the revenue is collected the goods are here to be sold and compete with our own make of goods ; the importer must compete with the manufacturer for the sale of their respective goods ; our own laborers lose the work of making the goods the government has to bring in, in order to get revenue ; the consumer has to pay a higher price to keep the business of importing on the move ; to protect and keep out the goods, the tariff must be high enough to keep out such goods ; keep out the goods, then you do not get any revenue. The sequence is: A very high tariff

stops importation and revenue ; a very low tariff invites importation and produces revenue ; a moderate tariff does neither, or the different kinds of tariff may produce the contrary of these apparent results. Hence it is indisputable that revenue sought after by measures of tariff is a speculation by the government. Tariff tax is like the taking of an anæsthetic to have a tooth extracted : you don't know you have been hurt, but the tooth and blood are gone ; you don't know you are paying the tax, because you are hypnotized with its supposed blessings.



## V. THE INCOME TAX.

UNTIL such time as we can have the necessity for all taxes abolished by municipal, State and Federal ownership of franchises, or a single tax on land values, I am in favor of the income tax, as one of the most effective means of placing the burden of government upon those best able to bear it, and who now proportionably bear the least of the expenses of a government which affords them the most comfort and protection.

The master stroke by which the rich go free, and the poor are more heavily loaded with indirect taxes, is the decision of the United States Supreme Court in the case of *Pollock vs. the Farmers' Loan and Trust Company*. The opinions in the cases will be found in the "Federal Reporter," Vol. 159 to 163, pages 673, etc., and the rehearing of case in the same volume.

I grant that the judges who joined in the opinion that the act was unconstitutional were honest and incorrupt. But they are human beings. Their prejudices, and

natural or cultivated dispositions are not above other mortals, so far as to make them infallible.

The insidious and overruling power of wealth hits a judge as heavily as it does other human beings. There are a thousand strings to the human heart; one can be so loudly and violently vibrated as to silence all the others. On political questions, the court has never been able to rise above the level of the politics involved and determined by it. This was true in the famous legal-tender cases and the election case of Tilden and Hayes. That some of the judges in the income tax decision voted contrary to their political preferments, only shows that judges sometimes sit up so straight they fall over backwards.

I believe the supreme court is wrong in its income tax decision. To entertain jurisdiction of the case, the court violated an act of Congress. The court just disobeyed an act of Congress. It fell back on decisions as to equity powers and jurisdiction, while such powers and jurisdiction had been taken away by an act of Congress.

The act of Congress is as follows :

“No suit for the purpose of restraining the collection of any tax shall be maintained in any court.”—*Revised Statutes of the United States, Section 3224.*

To criticise the income tax decision, we are not obliged to go out of the court itself for criticism.

Mr. Justice Harlan said :

“The present suits are merely devised to strike down the general revenue law by degrees; and neither the government nor any other officer of the United States could be rightly made parties of record.”

Again :

“Upon principle, and under the doctrines announced

by this court, a tax upon gains, profits and income from rents of land is not a direct tax upon such land within the meaning of the Constitution."

Chief Justice Fuller and a majority of the court held "that a tax upon incomes and rents of real estate imposes a tax upon real estate itself."

In order to make this monstrous decision, and thereby increase the burdens of the poor, besides violating the statute of the United States, as we have already seen, the majority of the court was obliged to overrule the decisions and precedents of the court of one hundred years, and ignore the law as laid down by every text writer of law, every statesman and publicist. The proof of this statement appears in the decision itself, and was brought home to the consciences of the majority of the court by the able and exhaustive opinion of Justice White, in which Justice Harlan concurred fully.

Now for the proofs.

Alexander Hamilton said :

"Capitation and poll taxes, and taxes on lands and buildings; all else must be construed as indirect taxes."—*Hamilton's Works* (Lodge's Ed.) 332.

But the majority of the court found comfort in the exclamation of Lord Coke (English jurist): "For what is land but the profit thereof."

In *Hylton vs. The U. S.*, 3 Dall., page 171, Justice Chase said :

"I am inclined to think the direct taxes contemplated by the Constitution are only two, to wit: Capitation, or poll taxes simply, and taxes on land. I doubt whether taxes by general assessment of personal property in the United States are direct taxes within the meaning of the Constitution."

In *Cheatham vs. U. S.*, 92 U. S. 85, Justice Miller said :

“If there existed in the courts, State or national, any general power, limiting or controlling the collection of taxes, or from hardship incident to taxation, the very existence of the government might be placed in the power of a hostile judiciary.”

Justice White said :

“The suit was maintained against express statutory authority and requirements. ‘That no suit for the purpose of restraining assessment or collection of taxes shall be maintained in any court.’”

The carriage tax of 1792 was held to be constitutional, and received the approval of George Washington. Among the judges who decided the act to be constitutional were Justices Patterson and Wilson, both of whom had been members of the original Constitutional Convention.

Justice Patterson said :

“I never entertained any doubt that the principal, I will not say the only, taxes the framers of the Constitution contemplated as falling within the rule of apportionment were capitation taxes and taxes on lands.”

Story says :

“It is seriously doubted if, in the sense of the Constitution, any tax was a direct tax, except those on polls, or on lands.”

Cooley on “Constitutional Limitations” (page 595), states :

“Direct taxes, as employed in the Constitution, has a meaning embracing capitation and land taxes only.”

Miller on Constitution (Sec. 282 A.), is to the same effect. In Pomeroy’s “Constitutional Law,” section 281, it is said :

“The reasons stated in the *Hylton* case are unanswerable.”

Hare on the American Constitution says :

“Direct taxes, in the sense of the Constitution, are taxes on polls and on lands.”

Burroughs, an authority on constitutional law, takes the same view.

Black, writing on constitutional law, is to the same effect, and says :

“So, also, an income tax is not to be considered direct, nor a succession tax imposed upon every devolution of title to real estate.”

From 1861 to 1871 the Congress of the United States passed many laws imposing taxes upon incomes.

In the case of *Insurance Co. vs. Saul*, 7 Wall., page 443, it was held that the act was constitutional, and the tax was not a direct tax, duty, or excise.

In the case of *Bank vs. Ferno*, 8 Wall., page 533, it was held that the term had been limited to taxes on land and capitation.

In *Scholey vs. Rew*, 23 Wall., page 331, the issue was the right to place a tax upon the right to take real estate by inheritance. The collection was resisted on the ground that it was a direct tax, yet the court held it to be constitutional.

In *Springer vs. The U. S.*, cited in Justice White's opinion, the assessment was on professional earnings and interest on United States bonds. Held constitutional.

All these cases were decided by the United States Supreme Court, and with just as learned judges on the bench as are now there.

Justice White, in his opinion, cites from *Fearn Rem.* (London ed. 1801, page 264) :

“A future judge may hold himself obliged to change a principle, and even consider it his duty to pay little

regard to the maxims and decisions of those who went before him."

Justice Fuller and his associates had no scruples in wiping out the decisions which preceded them.

"This decision of the majority of the court has given the same word in the Constitution two meanings. One when applied to an income tax generally, and another when applied to apportionment of such tax made up in part of rentals. One, when applied to the greater, and another, when applied to the lesser. The opinion is fraught with danger to the court, to the Constitution, and to the republic. Teach the lesson that settled principles may be overthrown at any time, and confusion and turmoil must ultimately result.

"If its opinions are to be changed by the personal opinions of those who may from time to time make up its membership, it will be a theatre of political strife. My strong conviction forbids that I take part in the conclusion, which seems to me so fraught with danger to the country."

So, you see, Justice White criticises the opinion of the majority, and it would be presumptuous for me to add to these criticisms. But we have language quite as forceful from the pen of another member of the court—Justice Jackson. He is now deceased, but the following sentences will make him revered among the patriots of America :

"The decision takes invested wealth into the Constitution as a favored and protected class of property, which cannot be taxed without apportionment, while it leaves the occupation of the minister, the doctor, the lawyer, the inventor, the author, the merchant, and other forms of industry upon which prosperity depends, subject to taxes without that condition.

"A rule which works out these results, it seems to me, is an instrument of most grievous wrong, and should not be adopted, especially when in order to do so the decisions of this court, the opinions of law writers, and

the settled policy of the government must be overthrown. It is to be deplored that for more than one hundred years of our national existence, after the government has withstood the strain of foreign wars and hostile civil strife, this court should repudiate and reject the theory of the Constitution by which the government is deprived of an inherent attribute of its being—the necessary power of taxation.”

It was a grand triumph for those who live on the fruits of others' labor when, by specious arguments and sophistry, they obtained the decision of our highest court (by a majority of one), which says: If you want an income tax, collect it from the “minister, doctor, lawyer, merchant, author, inventor, mechanic,” and the industrial classes. O, you sluggards! Will you permit such a distinction in favor of the rich to exist in this country, which boasts of equal rights?

Nine-tenths of the tariff plunder is now borne by the poor—by the classes named by Justice Jackson—and yet a court of justice remakes the Constitution, by which an income tax can be saddled upon the overtaxed classes. In the peril of war, the court says, yes, you can make an income tax, but you must collect it from the people named by Justice Jackson. A tax on rent is a tax on real estate; *a tax on your grandmother's cat is a tax on your grandfather's dog.*

Now, look at this plundering doctrine: A widow has a little home. She pays tax for every dollar it is worth, and tariff taxes besides. She has a boarder, who has an income of \$10,000 a year. He pays no other tax than the tariff tax a single man has to pay. We will say he and the widow are on equal footing as to tariff tax; but how grossly unequal when he does not have to pay a tax on his income!

The principle of the income tax is right. Other

countries have income taxes, and it is not thought to be anarchy nor communism.

It is objected against an income tax that it occasions a prying into the private affairs and accounts of persons. This same objection can be made against all forms of taxes, except the single land tax.

Again, it is objected that an income tax is a fruitful cause of perjury. So are all forms of taxes except the single land tax. Can you invent any tax more productive of perjury than the tariff tax? These taxes on incomes are advocated only so long as they are necessary, and during the time that will be required to get a franchise income, or single land tax, or both. What can be done with the income tax decision? Why, attack it right before the Supreme Court of the United States. When you have a case in court, and the court decides against you, you appeal or apply for a rehearing. This is a constitutional right. Nothing can be ended in legal controversies until ended rightly. The decisions of the court covering a period of a hundred years and all the text writers of law are more likely to be right than the opinion of one judge, changed between the hearings of the case. It is an established rule that precedents are to be followed, unless flatly absurd or unjust. There is no sane man who can show that the income tax decisions of the court for one hundred years were absurd or unjust.

Is this anarchy? If so, then the future government of our country is in the hands of the nine judges of the Supreme Court of the United States. If we have not the right to point out the folly and danger of the doctrine pronounced in the Pollock case, then free speech has vanished. We have the right to discuss the action of the court; we have the right to pass an income tax

law, and attack the decision in the Pollock case; we have the right to take another case before the court, and show the court that it was wrong; we have the right to show the majority of the judges the errors of their judicial ways; we have the right to tell the court it shall not disobey an act of Congress and interfere with the power of taxation by the sovereign people. We have the right to tell Chief Justice Fuller and his associates what Lord Coke told King James when the latter determined to hear what cases he pleased, and ignore the courts, that "The King is subject to the laws of the realm." The King told Coke he was guilty of treason to say so.

Those whose interest it is to escape an income tax cry out against the advocates of the tax, "treason and anarchy." They are the King Jameses of America. Though we believe that the majority of the court was wrong, it does not follow that we disrespect the court. We want the court respected and obeyed, but we want the court to be right, and in harmony with the spirit of our institutions.

If the court, and not Congress, is to shape the policy of our nation, then nine men, whom the people cannot reach, are our ultimate lawmakers.

If such great power as was exercised in the Pollock case by these gentlemen is in truth possessed by them, then we want the term of office fixed for a definite period. This will keep the court in sympathy with the people.

In a free and representative government no man should be permitted to hold office for more than seven years. Each officer should know that he is answerable to the people for his acts in office. If the framers of the Constitution could have had the experience we have had by limited terms of office for our judges in our

different States, they would never have adopted a life tenure, or tenure during good behavior, in our supreme court. So long as a judge is competent and behaves himself in our State courts, he is re-elected or re-appointed. What is true of the judiciary of the States, tell me why it would not be true in the United States.

The stability of the court does not depend upon the length of service of the judge, but upon his regard for and obedience to the precedents of such court.

Dr. Story has the following to say on this point:

“Our government is emphatically of laws, and not of men, and judicial decisions of the highest tribunals by the known course of the common law are considered as establishing the true construction of the laws which are brought into controversy before it. The case is not alone considered as decided and settled, but the principles of the decision are held as precedents and authority, to bind future cases of the same nature. This is the constant practice of our whole system of jurisprudence. Our ancestors brought it with them when they first emigrated to this country, and it is and always has been considered the great security of our rights, our liberties and our property. A more alarming doctrine could not be promulgated by any court than that it was at liberty to disregard all former rules and decisions, and to decide for itself, without reference to the settled course of antecedent principles.”



## VI. BRIBERY.

**I**N spite of laws with harsh penalties, bribery was never conducted on more ample scales than now. I believe it has never reached the President of the United States, notwithstanding the many strange stories

told in connection with a President. I want to believe there is still one office in the United States unblighted by the curse of money-love.

From the office of United States Senator down to dog-catcher, Bribery has sung her siren song, spread her golden pestilence, and bred the contagion of corruption. It is not unjust to say that our United States Senate is the speculator's ear-trumpet, and the millionaire's workshop. The House of Representatives is Monopoly's auction-room and the lobbyist's paradise. This does not mean all the Congressmen are bribed. Many of them are excellent men. Can you get the legal proof of the bribery? No. Does any sane man doubt the fact of bribery being in Congress? No. Partisan papers of all parties openly charge it against opposite parties.

Thus, in 1888, the convention of the Republican party charged that the proposed tariff revision was dictated by the whisky trust. You remember that the Democratic party charged that the tariff victories of 1880 and 1888 were the result of open bribery of voters; that the tariff bills of 1883 and 1890 were carried through Congress by purchasing or furnishing money for the election of Congressmen, and then explaining to them after election, such explanations always requiring large sums of money. The very recent Congress, and the speculations in sugar, and the charges that money was furnished by the sugar trusts to elect Congressmen, are ripe for reflection. Contributions of 1896 are to be paid back by the Dingley tariff bill.

The exposures of the vast sums of money used by the whisky trust—\$600,000 for "statistics," and \$500,000 for "extraordinary legal expenses"—prove bribery. The money was admitted to have been used in explanation and persuasion of Congress.

The corruption of our State Legislatures is notorious. Do you say it is imagined? Then you are asleep to events. Instances are on the record of my memory where members of the Legislature have received money enough on a single vote to discharge farm mortgages, and others became rich enough to live in dignified leisure after serving a single term in the Senate.

It is a very common practice to bribe members of City Councils for granting of franchises. New York City is the largest city, and it is there the Aldermen have received the most money for their votes. Chicago is a close second, and the instances of aldermanic corruption in that city are not only numerous, but notorious as well. What is true of New York City and Chicago is true of every municipal governing body in this country. Not all individual Councilmen are bribed, but too many of them.

And now we want to take a look at the bribery of the individual voters. I want to take one county in the State of New Jersey to illustrate the widespread evil of bribery. I can remember when there were not more than 200 voters in the County of Burlington who sold their votes. Now, 2,500 out of a total of 12,000 voters is a very conservative estimate of the number demanding money for their votes; 3,000 is within the number that can be bought. Any practical politician in the State, who knows anything about the county, if he could and would tell you the truth, will admit the accuracy of these figures.

The sum of \$7,000 is required to control the county for the Democrats; less for the Republicans, as the county has a nominal Republican plurality of 1,200. Absolutely true!

Now, how did this condition come about? When

H. B. S. ran for the office of State Senator, he bargained with Republican and Democratic workers, and dealt with them on strict business principles, the same as he bought cattle. He was elected as a Democrat. Afterwards he ran for Congress, and received the Greenback vote, with the Democratic vote, by the use of the same methods and means applied to the whole congressional district. *The latch-string and barrel-head were both out.* He was elected in a district nominally 3,000 to 4,000 Republican. Subsequently S. had a quarrel with Governor Leon Abbett, and S. determined that Abbett should not go to the United States Senate. S. put in money, and elected three Republican Assemblymen from Burlington County. S. went to Trenton and joined the Governor's other opponents, pledging himself there for \$70,000 to defeat the Governor. The latter was defeated. S., as a persistent bribe-giver, has raised the army of bribe-takers. This year of 1896 has witnessed a contest with all the money on one side. The result was sure. Honest Republicans, Democrats and other partisans ought to take no offense at this statement of the truth.

Suppose a poor man of learning and statesmanship, and in every way qualified for the office, announced himself as a candidate for the United States Senatorship. The practical politicians take it as a joke, or else they ask: "Who is going to put up the *boodle* for him?" I know of an ex-Governor of a State who started out on a canvass of this kind among the members-elect of a Legislature. He had a private conference with two Assemblymen. A friend inquired of the ex-Governor as to how he made out with them. He answered: "They wanted \$2,000 apiece. I can't stand it. I am done." And he was.

There is but one way to get an important elective office in this country—*buy it*. The candidate must be able to buy it himself, or have it bought for him. In the first place, he must get back his money; in the second place, he must please his purchaser. You say this is too broad a statement. I say it is not. If you, innocent or guileless citizen, still insist the statement is untrue, then prove the truth or untruth of the statement by running for some high office. Still, I say, the bribery don't stop with the elective offices, as appointive offices have been and are sold. The patronage-owner gets money for recommendations of particular candidates.

Practical politicians acknowledge the power of money in politics. Practical politicians know the folly of endeavoring to elect a candidate without a large campaign fund. Manipulators of legislation aim to please particular large money interests, so as to get large contributions from them. It is entirely within the limit to say that the railroads of the United States spend annually thirty millions of dollars for corruption purposes. This is the sum well-informed writers name.

Professor Bryce says of the lobby system :

“All legislative bodies which control important pecuniary interests are as sure to have a lobby as an army to have its camp-followers. Where the army is, there the camp vultures will be gathered together.”

What was done with the huge campaign fund of the “money-lover's party” of 1896? You innocent partisans answer: “It was used to educate the voters.” Twenty millions is a nice sum to spend for education in so short a time. You know half of this money bought votes and the influence of vote-controllers. It stultifies

your honesty or good sense and imperils the republic to deny it.

But it is useless to take more of your time to prove the widespread evil of bribery; the overruling power of money-love. It is a fact. What is the sequence? As the masses are too poor to furnish the money for the campaign funds, the masses have ceased to be a ruling factor in our elections.

Again, in making a platform and naming a ticket, the money-power tells the party exactly what it demands, and then haughtily adds: "We must be obeyed, or you will not get the campaign funds. We will not contribute, nor shall our allies." Another sequence: The interests of the money-power must be first served, against that of the masses.

Any person who denies the last two propositions, and their sequence, is a silly dreamer, and without a grain of knowledge of practical politics.

The money-lover's party, however, don't like the expense of the last campaign, and hence it is now suggesting that a new party be formed out of the Democratic-Republican ranks. Its name ought to be the Monopolistic Parasites, but, of course, if such a party were formed, its name would not indicate its aims. No such new party will result, however, in spite of Mr. Bynum's efforts. Either the Democratic or Republican party will be used by the monopolists and bribe-givers.

At the last national convention the Democratic party shook off the leeches of money-love and monopoly. The latter stole the livery of the Republicans at St. Louis. Monopoly, money-lovers and extortioners of the masses, won by the use of bribery, coercion, threats and appeals to prejudice instead of appeals to reason. No patriot will take offense at this plain statement of

the truth. The real patriot will reflect, and act with those who labor to redeem the government from the dominion of classes and money-rule.

How will you stop bribery? How do you stop the pollution of a stream, when you find the pollution begins at the source? You take away the cause from the source, don't you? This is the way to stop bribery. Let the government own the franchises, and then there will be no money from them for bribery, because no individual or monopoly will have a private interest to subserve. There will be no necessity to invest money in campaigns in order to secure legislation out of which great fortunes can be made. The miserable lobbies of State Legislatures and City Councils must go out of business, because their business must cease, and will cease.

Ex-Governor Larrabee, in his book on "The Railroad Question," says :

"The danger from railroad corporations lies in their great wealth, controlled by a few persons, and the want of publicity in the business. With bribes wanting in the balance of legislative equivalents, the people could be entrusted to enact laws alike just to the corporations and public, while asserting the right of the people to control the public highway, and to make it subservient to the welfare of the many instead of the enrichment of the few.

"Railroad managers never do things by halves. Well realizing it is in the power of a fearless executive, by his veto, to render futile the achievements of the most costly lobby, and to injure or benefit the interests by pursuing an aggressive or conservative policy in the enforcement of the laws, they never fail to make their influence felt in the selection of a chief magistrate either of the nation or of an individual State.

"No delegate with their permission ever attends a national convention, Republican or Democratic, if he is

not known to favor the selection of a man as the presidential candidate of his party whose conservatism in all matters pertaining to railroad interests is well established. At these conventions the railroad companies are always represented, and their representatives do not fail nor hesitate to inform this or that candidate that he is not acceptable, and will not receive their support at the polls.

“It is the boast of prominent railroad men that they elected Garfield, and the statement has been made upon good authority that not until a few days before election did the Garfield managers feel secure, and that when the secret history of that campaign comes to be written it will be seen that Jay Gould had more influence upon the election than Grant or Conkling.”

It was a joke upon a prominent and sagacious member of the National Republican Committee of 1884 that he prided himself upon a large contribution he had received from a rich and powerful person in the interest of Blaine, but after the election it was found the same railroad millionaire had made twice as large a contribution to the managers of the Cleveland campaign.

Nearly all the newspapers are bribed sheets. Nearly every editor rides on a pass, and he would be an ungrateful wretch if he did not serve his master. Abuse by newspapers of honest patriots, who wage war against the great wrongs monopoly inflicts upon the people, has become so common that much of their force has been lost upon thinking people.

“During one of the sessions of the Iowa Legislature, a newspaper correspondent came into possession of some information which reflected severely on the railroad lobby. He made his information the subject of a spicy article, and showed it to a friend who stood close to the gentleman chiefly implicated, with the remark that nothing but a one hundred dollar bill would prevent the transmission of the article by the evening mail to the

paper which he represented. Before sundown the price for the correspondent's silence had been paid, and an enemy made a friend."—*The Railroad Question, by Larrabee.*

Governor Larrabee's book, and especially its chapter on "Railroads in Politics," should be read by every American who cares to pursue the particular question of railroads more in detail.

Every device of law to prevent bribery has proven a failure. There is but one way to prevent bribery: Stop the business of the bribe-givers. Destroy monopolies, the great and prolific source of corruption funds, and bribery will fall therewith.

This republic cannot long withstand the assaults of the bribe-giver and bribe-taker. The bribe-giver expects and requires as a condition of his gift that he shall get back his money increased a hundredfold by special favors. This cannot be accomplished save only by legislation which plunders the masses for the benefit of the few. The sequence is, the plundering concentrates wealth; the few become richer, and the many poorer.

The army of bribe-receivers is enlarged. Rome fell as a republic when bribery controlled her elections. Afterwards the bonuses to the army insured the Emperor a lease of power. The bonuses of monopolies to the army of bribe-takers in these United States insure to monopolies, as the real emperors of America, a lease of power.

Money, you all-powerful god of this republic, if your temples are not purified and your fortress not bombarded and captured by men and principle, the sin will never be upon my conscience and soul.

So notoriously dangerous has bribery become, that the

United States Senate proposes to investigate, as the following resolution indicates :

*Resolved*, That a committee of nine Senators be elected by the Senate to constitute a committee on the use of money in elections, and that said committee be instructed to thoroughly investigate the extent to which money, if any, was used in connection with the recent presidential election, either in promoting the nominations or in influencing in any manner the choice of presidential electors, and to inquire whether or not any such expenditures were excessive, illegitimate, corrupt or unlawful, and especially to inquire and ascertain to what extent for such purposes the owners of silver mines, gold mines, the bankers, the manufacturers, the railroads or other corporations and millionaires of all classes made contributions, and what contributions, if any, were made by persons and corporations residing abroad, and to report to the Senate all the facts, and whether or not, in the opinion of the committee, any legislation by Congress is expedient and necessary to lessen or prevent the use of money in elections. Said committee shall have power to act by full or sub-committees, to send for persons and papers, and sit during the present session of Congress and until the first Monday of December, A. D. 1897, the expenses thereof to be paid out of the contingent fund of the Senate."—*See Vol. 29 Congressional Record, pages 164-165.*

This resolution was introduced by Senator Allen, on Dec. 15, 1896, and, if passed, the outcome of the consequent investigation will be exceedingly interesting. We may be informed as to how the tremendous gains in voting strength was made in the pivotal States in 1896.



## VII. THE PRINCIPLES.

HE in whose breast there beats a patriotic heart must feel a deep and profound interest in the purity of that government under which he finds it his lot to live. To have a happy being under a government, one should be well-versed in its basic and underlying principles. The person who knows no more than "such is the decree of the government, and, therefore, I obey," has certainly the haunts of dark ignorance ever about him. Ignorance of basic governmental principles leads to blind and groping political action.

Ignorant votes by citizens in a government in which the right to vote exists, are but the counterparts of ignorance of these fundamental principles. A ballot deposited by one thus ignorant is a stroke by chance : if it is right, then be it so ; if it is wrong, it is all the same. The man who walks to the polls and votes for candidates without knowing the principles he wishes his ballot to represent, is like the man who sets poison, only to return in an oblivious moment and swallow it, thus bringing about his own destruction. The voter should have a well-established and determined idea of what he wishes to accomplish by his vote. This he cannot have unless he has a well-grounded knowledge of established principles.

The Romans compared the state to a vessel ; hence the term *gubernator*, or helmsman, for a leader or actual ruler of a state. From the Latin this has passed into most of the European languages. Government, then, would seem to be the rules or principles by which the *gubernator*, *i. e.*, the helmsman, controls the vessel—

“the ship of state.” We may, therefore, simplify the complex idea of government by saying that it is the rules or principles of action which are necessary to enable man to live in a social state, or which are made by or imposed upon people forming a state.

Man is by nature a social creature. He was never created for living alone. His wants make him dependent. His fears lead him to self-protection. These two elements may be considered the primitive causes of the formation of society. Banish these, and you also banish the absolute necessity for society. Man without want would be a self-reliant and purely independent creature, and, like the beasts of the forest, he would be able to supply all his wants. If he had no fear, he would have no need of protection. Then wherein would consist the use of society? Society is the result of the wants and needs of man, and this society constitutes the “ship of state,” and the principles or rules embodied in laws, which we call government, are indispensable to guide, to preserve, and navigate the “ship of state.”

1. *The principle is equality rightly understood.*

Allow me to add at the threshold of my remarks on this principle, I speak only as it pertains to matters of government, and in no way state or imply anything relative to social matters. It is only the demagogue and the advocate of agrarianism who would seek to banish and destroy all distinctions of society arising from any cause whatever. It is such cancers as these on the body politic that would bring everything in the state to a common and allotted level. Such schemes are wild, unjust and unpracticable. No one who will calmly and dispassionately reflect upon such illusory schemes will seriously advocate them.

They are bold strokes at well-founded principles, and we will consider them as we advance.

I state that the principle is equality rightly understood. What, then, do we understand by equality? I would suggest an equal division of rights, burdens, privileges, advantages and assumptions.

A government should have certain well-established and well-defined rights to which individuals living under it are entitled, and which they can of right demand.

These rights should be general and universal, so that the highest and lowest citizen can stand on the same level with respect to such rights, and be equally entitled to them. Rights emanating from the government should be such that the man who "drinks the cup of poverty to its dregs" may have the same peaceful possession of such rights as the man who possesses untold millions.

So the burdens of the government should be equally distributed among the individuals. No man should be obliged by his government to take upon himself any greater burden than in justice and equality and of right he should bear. On the other hand, no one has the right to shirk his just share of the burdens. A government never more deserves the blessing of God than when all its taxes, duties, imposts or demands are equally distributed—not according to numbers, but according to ability to bear the burdens. In order to carry out the principle of equality in respect to burdens, those on whom falls the duty of devising the schemes must take into consideration the relative ability of individuals, and must frame their laws by this standard. Each should be compelled to give according as he hath.

As there should be equality of rights and burdens, so there should be equality of privileges, advantages and

particular exemptions. If a government persists in granting to a chosen few certain royal privileges, it cannot long continue without an attack from the many. If there are privileges, they should be general. If there are advantages to be had, they should be general. If there are exemptions, they should be justly distributed.

Suppose the government exempt a certain class of property of A. from duties, but not that of any other individual; this would be a plain and palpable violation of the law of equality. If a government should so frame its laws as to compel a certain portion of the community to pay a tax and not the other, this would be a plain violation of the principle of equality. If the government should devise such schemes in the way of raising revenue as would heavily tax one class of citizens and enrich another class, no one will dare say this is not a violation of the law of equality. All such schemes do, directly or indirectly, give to one person or class a privilege, advantage or exemption, while to another it is denied.

If a government would dry up the flood-tide of complaints, hush the voice of lamentable bickering, and instill in each of its individual members a heart-burning loyalty, it must firmly establish equality of rights, equality of burdens, equality of privileges, advantages and exemptions. No government that would sit under the smiles of prosperity and reap the rich harvests of individual happiness and contentment, can afford to persistently violate this great basic principle. A government which persists in violating this principle will be banished from the face of the earth. It is not fit to govern the gloomy regions of perdition and their myriad hosts of infernal beings. Among the facts called "self-evident truths" in that time-lasting docu-

ment the Declaration of Independence, you find "that all men are created equal."

How much truth there is in this one sentence. Mr. Jefferson was fully cognizant of the truths advanced in the foregoing remarks. All who would have a government of justice or equity, must be cognizant of them. All who love to see their government advancing to the front rank among the nations of the world must be cognizant of them. All who wish to realize absolute security of their persons, their liberty and their property, must be cognizant of them. All who love their country must be cognizant of them. But merely to know these truths—truths worthy of being engraved on monuments of gold—is not sufficient. There must be an acting upon them, and this, too, without halting fear or undecided retraction.

2. *A principle of good government is unity.*

An old adage says, "In union there is strength;" "United we stand, divided we fall." These truths suggest to the mind an array of useful lessons for those who seek to establish a government founded upon well-established principles. If strength consists in union, then every government should strive to increase in unity. If in mechanics there are several forces, each pulling in opposite directions, the force of the one will neutralize that of the other, and the logical result must be weakness, or misspent force, or waste of strength. In governmental affairs, if there are numerous factions each possessing certain strength, and these rival factions are prone to oppose each other in all their projects, there will be corresponding weakness. Let these factions unite, and there will be found increase of strength. A government made up of contending fac-

tions, possessing clashing interests and rival hopes, cannot long continue.

The organism of a government should be harmonious. Its parts should move without friction. It should be able to furnish of its innate source proper lubricating substance.

Wheel should turn within wheel, and cog fit within cogs; thus will unity be secured, and strength remain intact. One has said that "unity is the palladium of our political safety and prosperity." The absolute verity of this is seen when we reflect upon the fact that without it no household, no nation and no government can long continue its existence.

But how is a government to secure unity? One way that suggests itself is to curb party spirit. If in a government party spirit runs high, and everything, good, bad or indifferent is made subservient to it, there can be no such active principle as unity. There should be a boundary to the extent of this spirit. This boundary should be made where unity begins, and no individual should ever think of transgressing it. This will require that a party make a sacrifice in order to preserve intact the principle of unity. Absolute agreement of parties is not sought. Such is impossible. But there can be a boundary to the rancorous spirit sometimes manifested in governments, which, like David Copperfield's old aunt, "will break before she will bend." It is but sheer folly for men to establish governments, and then each individual, each party and state set up its own iron will as imperative, as unbreakable as the laws of the Medes and Persians. If such an iron will is shown, with a stubborn determination to carry it into full effect despite all consequences to the government, then there is but little hope for unity and political prosperity.

When such a state of things is imminent—when government is thus endangered—it strikes me that the wise course, the judicious course is to surrender this will, and give up to that which will not destroy. Common prudence dictates such a course. The national flag of a government hangs over a wide-open grave when this stubborn iron will is disposed and resolved to make or break.

If a government has not unity, then there certainly cannot be individual happiness, for how can a government insure peace and happiness to individuals, when it is under the severe and rending strokes of internal turmoil? How can there be peace and happiness among individuals when there is not such at the head, *i. e.*, the government? If individuals are in continual strife with their government, they will be in strife among themselves. This is the sequence of the violation of the principle of unity.

Unity in the government can only be the result of individual efforts to secure it. The government will be what the individuals of which it is composed choose to make it. This is so because all governments, rightly established, are indebted to proper individuals for all the legitimate powers possessed by such governments. In other words, the people are the source of all governmental powers legitimately possessed. If the people are not united upon the various schemes of government, then there cannot be unity in the government. Every scheme devised by the government will be subject to continual attack from those who do not agree with the party devising it. It results, then, that you cannot force and coerce individuals living under a government into unity. As man has a free will, a discriminating choice, he seems to be determined to exercise it in this

respect as in any other. The only way in which to obtain unity is, as above stated, to have each person partaking of the blessings of civil government use every laudable means and every just effort to heed this noble principle and practice. To make this effort, it is only necessary that each person should do what he is called upon to do in every other department of life ; that is, to make mutual concessions, sacrifices and compromises. We to-day would not be enjoying the blessings of the constitutional government we have, had not the wise and patriotic statesmen who framed that Constitution made concessions, sacrifices and compromises. True it is that in order to make these we will be called upon to put down selfish motives.

Then let those who would have government upon principle endeavor, in every case in which opportunity offers itself, to put principle into practice ; and thus will be established one of the most essential principles of government, destined to bring to the individual happiness and the rich blessings of peace and prosperity. Thus, too, will the individual be brought to realize that in unity there is strength, and that strong, united hearts make a strong and impregnable government. Thus, too, will other governments be taught, by the most powerful object lessons, that they need not set covetous eyes upon a nation whose fundamental principle is unity. Thus, too, will those who are subsequently to live under the government learn to respect, and ever to execute, the principle of unity.

3. *There should be a government for the whole.*

This principle demands that, in forming a government, the whole of that which is to be governed should be taken into consideration. The objects of the government are all to be included. The various interests

are all to be respected and duly protected. It suggests the idea of intimate relationship of different interests in the government. It also demands that the government should be general in its object that it should be far-reaching in all of its efforts to govern well.

We are also to consider that in its effort to govern well, the government should go out to the remotest territory over which it is supreme. In doing this it should always endeavor to subserve every interest, and yet protect the whole from injury. It should advance the interests of all without opposing those of any one in particular. The whole of everything governed should receive, first, attention at the hands of the government, and then, if a part can be protected and fostered without injury to the whole, there can be no objection to directing attention to that part. No particular class should be favored at the expense of the whole. This would be, as we have seen, a violation of the principle of equality, as well as a violation of the principle which requires a government for the whole. A government has no right to govern one part of its people in one particular way, and the other part in another way. All class legislation which unequally confers rights, or strips of privileges, grossly violates the principle which requires a government for the whole—a holy government.

In order to avoid such violation, let those whom we call to govern us be careful never to lose sight of the whole of that which is to be governed. If a man make a machine, he prescribes the rules to govern every part of that machine. If it is a clock, he does not make a rule for the movement of its hands, and none for the pendulum. One without the other would be utterly useless. While one part of the government may be in

motion for some time without the other wheels revolving, this cannot last for a long time, and then every wheel in the machine will cease its revolutions. Hence it is necessary that the whole machine receive attention in order to keep it in perfect working tune. And so a government must consider itself established for the purpose of governing the whole of its objects, and this without any insidious discriminations between parts. Therefore, let a government be as broad and comprehensible in its general scope as that which is governed is broad and comprehensive. This is a safe rule and must be unflinchingly applied by every government which styles itself a government upon principle.

4. *There should be no injurious alliance between parts.*

The principle immediately preceding this is a counterpart of the one we are now to consider. If there is anything which tends to subvert government it is unprincipled leagues, alliances and confederacies. If numerous parts of the government—composed of factious individuals—set about waging on the state impracticable policies, it will require a vast amount of energy in the government to overthrow them. This is necessarily spent, and yet unprofitably. The only gain is that the government is maintained intact. But it is very much set back. Its necessary progress is arrested to the extent of its wasted energy. These unprincipled confederacies have much the same effect upon the government that sickness has upon an animal. Their only possible use is that they may teach some lessons of wisdom to the government. They tend to make the government experienced. But they are lessons and experience most dearly purchased.

Every individual who has the welfare of his country at heart should have most cogent reasons, and most

persuasive evidence, to induce him ever to lift a hand against the well-defined policy of his government. Political parties are indispensable to good government. But a political party is quite a different affair from a factious alliance. Political parties are composed of men united together by reason of holding similar opinions on given questions and issues. But alliances may be, and generally are, a collection of special interests working in the ranks of all parties. A political party has, or ought to have, at heart the welfare of the people and the continuance of the government. An unprincipled alliance aims sometimes at its destruction, if necessary to accomplish the ends of the alliance. The monopoly leagues, alliances and confederacies are breeders of factions.

5. *A government should avoid an overgrown military establishment.*

This principle carries with it an abundance of reasons. No one, who knows anything of the power with which the military is clothed, will for a moment contend that the military body in a government should be large. It is dangerous to liberty. Liberty is above all other blessings secured by government to society. Without it citizenship in any government is not worth the name. All governments should strive to preserve the liberty of the citizen. All laws which in any way tend unnecessarily to restrain the citizen ought to be stricken from the pages of the statute-books. There should be well-established remedies for illegal confinement. These remedies should be easy to understand, and readily accessible to all having occasion to use them.

Thus, liberty being of such incalculable value, if there were no other reasons for avoiding an overgrown military establishment, this one would suffice. But let

us consider another reason. The military class will increase that class which increases under all governments—I mean the non-producing class. While this class is an inseparable incident to all organized societies, it is a burden upon the producing class.

The life of the soldier is inconsistent with the life of the citizen. This should not be, but invariably this is the case. Let a man join the army, and thereby become a part of the military, and after some years' experience his habits are newly moulded. He seems to be unfitted for continual industry and good citizenship. He is like an officeholder. Having become accustomed to look to others for support, he continues this expectation. He acts upon the principle that the world owes him a living without any effort on his part. He folds his arms to his throbbing breast and waits for charity to fill his lap with dispensable luxuries. Thus he becomes an idler, and in many cases a criminal vagabond. Such a class is a great burden upon society. Not only so, but it is a most dangerous element to the state. It ceases to appreciate the benefits of, and thus loses its interest in its continuance. A review of the overthrow of the Roman republic will justify these assertions.

Again, an overgrown military establishment may be used by the executive of the government as a most powerful engine of oppression. If a government should be so unfortunate as to be subject to a tyrannical executive officer, and he sought oppression of his people, a large body of soldiers would be most convenient for such a purpose. The military of a state is always used to carry out measures of the government, and not to oppose them. It is the people who are oppressed, who leave the plow, the forge, the work-shop and the counting-room, and turn soldiers to resist the enforcement of

the unjust measures of the government, and turn soldiers to resist such unjust measures sought to be accomplished by the use of a standing army. A government should, therefore, guard the growth of the military with a watchful and jealous eye, unless it should disproportionately swell in numbers and increase in power. This must be done, or the government will violate this principle, and suffer the full benefit of its want of vigilance—it will reap the fruits of what it has sown, and garner a most unprofitable harvest.

But, in order not to violate this principle, the government must keep and maintain, ready for instant use and thoroughly equipped for instant action, a military of due size. The necessity for this is apparent upon the slightest reflection. The man who would defend himself from unjust and illegal assaults must have at hand the means of defense. So a nation that would not be the humiliated and cringing dupe of other nations must have the means of effectively resisting attacks, and making aggressions where dignity and right demand. This should extend to a force upon land and sea, for the majesty of a nation should be as peremptorily asserted on water as upon land. In order, too, that a government may duly protect the coast of its territory, there should be a strong naval force under the military establishment. To live in peace, a government should have under its control a sufficient military. This sufficiency must be determined by a variety of circumstances. Among these are the friendly or unfriendly relations which it sustains toward other governments, its extent of territory, easy or difficult access of attack, and the internal condition of individuals as to their contentment, happiness and satisfaction with the government.

I cannot better close my comments upon this principle of good government than by giving the words of an elegant and polished writer :

“In a land of liberty it is extremely dangerous to make a distinct order of the profession of arms. In absolute monarchies this is necessary for the safety of the prince, and arises from the main principle of their constitution, which is that of governing by fear ; but, in free states, the profession of a soldier, taken singly and merely as a profession, is merely an object of jealousy. In these no man should take up arms but with a view to defend his country and laws ; he puts off the citizen when he enters the camp ; but it is because he is a citizen, and wishes to so continue, that he chooses to make a soldier of himself for awhile.”

6. *Respect for authority.*

In every government there must be supreme authority. This authority is lodged where the people making the government choose to lodge it. But when once they have made their choice, and have clothed a body with authority, it behooves all persons living under a government to give it due respect. This principle is not confined to such authority as is supreme, but extends to all authority willingly delegated and rightfully possessed. Thus, while the individual should have due respect for the chief executive of a government, he should also have due respect for the inferior magistrate, or rather the authority with which he is clothed. It is as absolutely indispensable in the one case as in the other. The want of it in either case tends to subvert the government under which it occurs. The only difference is that in one case it is more notorious than in the other.

No person who has a just appreciation of the innumerable benefits derived from government and civilization

will have the courage or audacity to say that there can long be a government where contempt and disrespect of authority are tolerated with impunity. That there must be due respect for authority rightfully held and possessed is self-evident, if good and peaceable government is desired.

But authority, to be respected, must be respectable in itself. In order to be so, it must, in the first place, be properly bestowed. If it has been usurped, and thereby unlawfully held, then no one can render it due respect. Suppose an officer under a government claims to have authority and power to decide disputes between individuals, and actually exercises such authority. You know he is not clothed with such an authority—that he is an usurper. Then you cannot respect such authority. You would only be driven to treat the claimant and the authority with disrespect, and even open defiance. In the second place, it must be authority held and exercised *de jure*. Let authority be justly bestowed and exercised by power of right, yet, if there is not a sure and unflinching foundation in the nature of things, it will not be respected. Nay, the government, in view of the principle under consideration, has no right to demand such respect, unless the authority sought to be exercised is of right.

7. *There should be a compliance with law.*

Every government makes rules of action in order to govern its citizens. These laws, when made by the proper authority and in due form of law, are binding upon every one living under the government. They are, however, to conform to two things, viz.: the Constitution, and this whether written or unwritten; and, secondly, they must not contravene divine laws. The Constitution prescribes a limit beyond which the law-

making power cannot go. If it should transgress these prescribed bounds, then the law so written is entirely void, and, by consequence, of no binding force upon the citizen. It may, with impunity, be set at naught, and when one is called upon to answer for a breach, he has only to plead in justification or in bar the unconstitutionality of the law which it is alleged he has infringed. It then becomes the duty of the tribunal before which one is taken to refrain from punishing the alleged offender.

So, if a law is made which contravenes some plain divine injunction, this law is of no more binding force in conscience than is the unconstitutional law in the civil forum. If, to illustrate, the sovereign power should command one to commit murder, no one would for a moment presume to obey such a law. Every one would instinctively acknowledge that such a law was in itself absolutely void, and, by consequence, of no binding force upon those to whom it is directed, or upon those whose action and government it seeks to control.

If, then, the laws are valid and obligatory upon the citizen, he has no right to refuse compliance with them, unless he would violate the principle of government which requires an uncompromising compliance with the law. This compliance should be as general and universal as the laws are themselves general and universal. The principle of equality requires that every citizen of the government should be held to such a compliance. The government should exact as rigid a compliance from one quarter as from another. There should be no inequitable sorting of those who shall render full compliance. None should be too big, none too little fish for the drag-net of the law.

Let us add a word as to the effect of non-compliance :

If disrespect and contempt of authority will subvert the aims of government and overturn its established ends, how much more effectively can the same end be accomplished by a non-compliance with the valid laws of the government? The laws constitute the evidence of authority, and the blows against law are direct blows against authority. The consequences of contempt of authority will follow much more quickly from an uncompromising violation and sullen non-compliance with the laws enacted and recognized as the valid and binding rules of the action of every individual living under and subject to governmental authority. Take away law, and its obligatory force, and the government, the ship of state, is at sea, amid the lashing of waves and white-capped billows, plunging into the foaming surf without chart or compass. As the seamen or the passengers who would in such a perilous time throw away the chart and compass must be the sufferers, and face the wide-open jaws of grim old death, so those living under the government, who defy authority and set at naught rules of action, must be the greatest sufferers for their foolish conduct. They seek revenge, and obtain its gratification upon their own offending persons. Let, then, no good or loyal-hearted citizen by word or action manifest any disposition of non-compliance with valid and obligatory laws. "All things," says Montesquieu, "should be done in compliance with the law."

8. *There should be acquiescence in measures.*

This principle is of close akin to the two preceding. Measures of the government are the result of policies adopted under the law. These should be legal, and made in furtherance of the demands of the law. The measures adopted by the government should always

have in view the promotion of the public good—the public welfare and happiness of all citizens. All measures should be founded upon the principle of *the greatest good to the greatest number*. The difficulty in devising measures will be found in determining what is the greatest good ; but let those who are in the government to devise these measures study them for the purpose of such good, and never with an intention of merely obtaining or subserving special interests. Let the measure be ever so unpopular—let ever so much scorn be cast upon the government on account of the measures adopted, but if they are destined to increase and advance the public welfare, and to have beneficent results to society, then the government should never slacken or abate its efforts to secure and compel acquiescence. This requires firmness in the government and disregard, in so far as personal favor is concerned or private aggrandizement may be involved.

Measures to be acquiesced in should emanate from the proper authority. This authority should, as a matter of course, be such as is legally empowered to devise such measures. A government should compel citizens to obey and acquiesce in measures.

They must also be such as are not repugnant to the theory of government under which they are devised. Thus measures which, under a monarchy, would be upheld and applauded, would, under a free government of the people, be treated as subversive of their most precious rights. For instance, under a monarchy measures to take away the right of suffrage from all except those possessing a certain amount of property would be acquiesced in, and by all a peaceful submission rendered ; while, under a free government of the people, democratic in its theories, such measures would be

deemed as depriving the people of their well-secured liberties.

So measures to be acquiesced in must be consistent with the circumstances of the people under the government. A measure which would be heartily approved and lauded to the skies in prosperous times, would be deemed oppressive and tyrannical in a time when the people feel "the hungry tiger of cruel poverty crouching about them." Measures should be such as emanate from the proper authority, and dovetailed with the times and circumstances of the government under which they are devised.

The baneful effects of want of respect for authority and non-compliance with law, will follow a neglect or refusal to acquiesce in measures devised by the government. Let every man, woman and child whose lot it is to live under a government, determine to submit to its schemes so long as such schemes have in themselves no notice or forerunner of great inconvenience to the individual, or of special advantage to particular interests.

9. *A right to alter the constitution.*

This principle implies that every government has a constitution, either written or unwritten, by which even sovereignty is restrained, and has accorded to it certain bounds beyond which it may not go. In some governments this constitution is an enactment of the people to be governed, as much as a statute is an enactment of those to whom the power to enact laws is delegated by the people to be governed by the laws so made; while in others this constitution consists only of principles handed down and recognized by successive generations as the fundamental and basic law of the land, and to which all legislation must conform. These constitutions are composed of the highest principles

which can regulate the conduct of man, the noblest of all organized beings, endowed with free will and reason. The origin of such constitutions is coeval with society, and inseparable from its institution and existence.

But these constitutions must be adapted to the circumstances of the individuals living under a government. It must be a rule to regulate the condition of society in the present and according to its organized theories. We are only considering, however, the right to alter constitutions founded upon good principles. This right is based upon necessity. As there will be material progress under a government, of whatever form—as times will change and new ideas develop—as there will be new and more complicated relations formed by one government with another—as there will be novel inventions, and consequent new rights demanded, it is apparent that there will arise the necessity for a change in the constitution. As people, who are the subjects of a government, seek new avenues for a livelihood, there must in consequence be new rules to govern them. New principles of right will as a matter of course arise, clashing with and running counter to the old ones, and hence the only possible escape is to change the old, or rather substitute the new.

The people under a government have, too, the undisputed right to change that government, whenever the majority shall determine that such a change is for the benefit of society.

When they decree that there shall be greater progress of all industries, and better and more wholesome government wrought through a change, then they have the right to bring about such a change in the most speedy manner consistent with due protection to all interests concerned, and without unnecessary deprivation of

rights involved. If it should be found that the constitution under which a government is working gives it a retrograding instead of an advancing motive, then the sooner there is made a valid alteration in that constitution the better it will be for all interests which that constitution regulates. No sane person can for a moment claim that a government should continue in a downward course. If, then, it should be found that a government is not advancing and gaining the progress which its standing demands, and which it of right should make, let it set about to ascertain the cause of the sad effect. If it should find that the cause is a defect in its constitution, then let the constitution be altered and amended in such manner as will dispel all infelicitous consequences. If there has been a principle inculcated which works the injury, let the government, with dignity and decision, strike out such a principle from its organic law. If, on the other hand, a principle has been disregarded and neglected which would work to the interest of the government, then, with equal promptness, let the government insert and establish such principle. The people are the government in the United States, at least in theory.

The necessity for a right to alter the constitution is still more apparent when we consider that if we do not alter we must continue in our course of government from bad to worse. Instead of building up and advancing all interests under the government, we would be oppressing and retrograding, and this without the power of redress. We would thus place upon coming generations a wrong of which the reparation is impossible. We would in effect say to them: "We set you on the downward course, and thus shall you proceed." No one will contend for the justice or absolute right of such

a course, and hence all must admit that the right to alter the constitution is a principle of good government. It is an indispensable principle, the want of which would subject the government to overthrow, and probably place in its stead anarchy and all its horrors.

I will here take the liberty of adding a few words uttered by him who earned the title, "The Father of his Country." "In all changes," he says, "to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments as of other human institutions; that experience is the real standard by which to test the real tendency of the existing Constitution of the country; that facility in the changes upon mere hypothesis and opinion exposes to perpetual change upon endless variety of hypothesis and opinion."

Considering the weight of authority here adduced, it is seen that care and caution should be used in determining upon a change in the constitution. In fine, it should be determined from information gained from every source possible and soundest judgment exercised upon such information, that a change is an absolute necessity, and indispensable to promote the public welfare and insure domestic tranquility.

The sentiment of Montesquieu, as to when a repugnance to a change of law is reasonable, may be quoted with approval as applicable to the subject of an alteration in the constitution. It is as follows:

"When the laws of a country approach so near perfection and justice, and the abuses are so trifling that no sensible advantage could be expected from a change, the repugnance to change is reasonable. When there is no certain principle by which we might direct ourselves in security to the establishment of new laws, then repugnance to the laws is unreasonable."

10. *There should be no entangling alliances with foreign countries.*

The avenues to foreign influence should be shut up. This principle expresses the sentiment that a nation should keep its own counsel. A government ought to so frame its policy with respect to foreign governments as not to intertwine it with them. Such a policy should be adopted by a government as will enable it to deal with another government without becoming entangled in the affairs of the latter.

A government should have certain well-defined purposes in view, and should endeavor to accomplish these alone and single-handed without forming any alliance with others. If it cannot accomplish them without such alliance, then it is better it should not accomplish them. A good rule would seem to be: Do what you can with your own hands.

No one can predict what will be the result of an entanglement between two governments. Nay, it may happen that there can be no extricating of the one without a vastly expensive and devastating war, with all its anguish, misery and horrors. Or, to avoid such war, a government may be compelled to pay large sums of money, thus taxing and burdening the people under it, or else to run into a vast public debt. This, in a free country, should be sacredly avoided, and, if not avoided, paid as speedily as means of extinguishment can be had. Upon principle a public debt is a public curse.

If a government would shut up the avenues of foreign influence, it must avoid entangling alliances. Foreign influence upon a government is baneful and injurious.

“It is to ourselves we must look for strength. The nation that only exists by the assistance of others is not born to live.”—*Kossuth*.

We may here recount some of the means, or rather the avenues of foreign influence. First: The acquisition of territory by foreigners. Power is ever the concomitant of property. Power in the latter case is only another name for influence. If property is held, then there grow out of it rights which the owner can demand of the government under which the property is held. If rights can be demanded, then the means of securing and obtaining these can be used by those to whom they are due. Through the use of these means will a great influence be felt in every department of the government. Then there is the interest which citizens feel in property held by foreigners. Such interest leads to cringing submission to the terms and demands of the foreign possessors. The mercenary spirit prevails. The possessor, of course, has an interest, but he will endeavor to have every other interest subserve his, and this interest will not be any more extensive for the government than is necessary for him to maintain his property rights.

In the second place is a mixed citizenship. By this I mean, where people are resident under a government, but not legal citizens either of the one under which they are resident, or the one from which they hail. Persons who are suffered to reside for a long time in a country without the duties and responsibilities of a full-fledged citizen, and without owing anything but a local allegiance, are sure to exercise a foreign influence. Mixed citizenship begets but half-hearted allegiance. If there is but half-hearted allegiance, then there can be but a measured influence in favor of such a government. A government should require a total renunciation of the rights, privileges and love of foreign governments before

suffering foreigners to have any influence in the government under which they reside.

Thirdly: The officials of a government should be closely and peremptorily guarded against the receiving of any kind of present from any foreign power. If one accepts a present, he will feel under obligations to the donor. When such donor asks a favor, one can hardly think of refusing to grant it. This holds good among officials the same as in private affairs. Such a gift is a bribe, under the respectable garb of a liberal donation.

Fourthly: One nation should not become too friendly with another nation. As one friend will exercise influence over another, so will the government that is on exceedingly friendly terms with another mysteriously and unconsciously influence the action of the other.

Fifthly: One government should be careful as to how it receives aid and assistance from another. This is very important, for one government may overturn another by use of such means. They will appeal from the government to the individual for a return of favors, and thus will the individual lose all respect for his own government and its laws. Such a state, we have seen, would lead to all the detestable evil of want of compliance with authority and acquiescence in measures. Let a government, therefore, scrutinize and well weigh, and carefully consider the conduct of another government toward it. Let it close and bar every avenue through which there may be a possible entrance of foreign influence.

II. *There should be no sectional or geographical divisions under the government.*

As there should be a government of the whole, so the government should be whole and coextensive with the boundaries of its territories. It should not provide one

kind of government for the people of one section, and another for the people of a different section. In the governmental eye there should be nothing but the boundary lines, and these should be well defined. Within this scope the government ought to be able to protect every one in interest, and to do impartial justice to all. There should not be any sectional discriminations.

If there should happen to be sections in which interests are radically different, let each make sacrifices and necessary compromises, so as to do away with the painful cry of sectionalism. In doing this, a pure love for one's country, and the continuance of a government to which unfaltering loyalty is rendered, is manifested. Thus, too, would a source of trouble and anxiety be effectually cut off, and peace and harmony reign supreme where internal turmoil and dissensions might otherwise hold full sway.

13. *Administration should be the result of consistent and wholesome plans, digested by common council, modified by common interest, and not ill-concerted and incongruous partisan measures.*

In all governments there is a certain amount of power which must be lodged somewhere. This power should be the natural outgrowth of laws intending to confer it. It is a wise plan of most governments to divide the recipients of power in such a manner that one division will form a check upon the other. The greatest check should be directed to that part which is the most powerful, and therefore most dangerous to liberty and the sacred rights of citizens.

The branch of government which has charge of the administration is generally the executive. In fact, there must be an executive, even if it be separate from the

other branches of the government. The legislative makes rules of action for the citizens, and seeks to check the power and prescribe the boundaries of the executive. The judicial part is the interpreter of laws made by the legislative, and has great power on account of the latitude generally accorded it. Yet in theory it cannot transgress the limits of the legislative. The two last named should ever strive to place a check upon the first. This is necessary, for where power is lodged there is a natural tendency to increase. These mutual checks should operate, however, in such a manner as not to encroach upon the bounds of each other, because encroachment in this respect will necessarily lead to conflict.

After the laws are made and a judicial interpretation is set upon them, it is still left for the executive to carry them into effect. In doing this there must be means adopted and plans devised. These must be made, or the government is no government at all. The first duty of the executive, then, is to devise these plans, so that they be consistent and wholesome. There should not be one plan to-day and another to-morrow. Consistency is as much a virtue here as in other cases. The plans, to be consistent, must be well-digested before an attempt is made to execute them. The effect of them must be well-considered, or else there will arise an imperative necessity for withdrawing them. Then another will be started, and thus would arise great inconsistency. Such a course would be very dangerous to every interest existing under the government. Inconsistent plans would carry with them the *prima facie* evidence of not having been well digested by common council before instituted. Every interest, of whatever nature, should be well con-

sulted upon and considered before plans are adopted and attempted to be executed.

The wheels of trade cease to revolve, and the onward march of commerce is arrested, whenever an uncertainty exists as to what will be the course of the executive. So a single industry will stop and wait whenever the executive in devising plans omits to take this interest into consideration. So the indication of an injury to an interest will even permanently destroy such interest. These things, therefore, show conclusively that the plans of the administration should be modified by mutual interests.

If every interest is well considered in the making of plans, and the plans well digested by common council, then there will be little scope for the exercise of ill-concerted and incongruous partisan measures. It is a very serious question: how far should individuals indulge party spirit? It is certainly a much more serious question how far those charged with the administration should indulge such a spirit. A government cannot consistently with the right of free speech and liberty of the press, in any way curb party spirit in the individual. This is a matter which the individual must regulate for himself. Loyalty to government and earnest patriotism should restrain one from carrying party feeling to injurious excess. There is such a thing as blind loyalty to party, arising from bitter partisan feelings, and under such circumstances the man will be doing a great injury to his government with such intentions. Nay, he may even strive for great good for his government, and not be able to see the injurious consequences of his party acts. If one deems his party infallibly right, he will go to any measures of destruction to gain a victory. He will always

argue that it is a question of truth or error, right or wrong. This is excessive partisanship, and such the individual should avoid—yes, even detest. If we never become blinded with party spirit, then we will never do injury to our country and our government.

If excessive partisanship is an evil in the individual, it is proportionably greater in the executive. This is so for the very obvious reason that the possibility of doing mischief is very greatly increased. No one can calculate the vast amount of injurious influence that may be done in the government by ill-concerted and incongruous party measures. A party includes only a part of the citizens living under a government. A plan, therefore, which seeks to aid and benefit a party to the exclusion of others, is unjust and impolitic. The government is supposed to be for the protection and general benefit of not a part, but the whole of the people. If the measures are partisan, then they are in direct conflict with this principle—in subversion of very plain and obvious truths.

Whence comes the right of one part of the community to advance its own interests while destroying and demolishing those of the other part of the community? Can there be any justice in the plan of a party which makes the interests of others a sacrifice to its own and favored interests? Does any one deem it just to have been made a gainer on account of the destruction of a neighbor's rights? I think not. Then no one can rightly contend for the establishment of ill-concerted and incongruous measures of party in the administration of any government.

14. *There should be a general diffusion of knowledge.*

The only governments which, upon principle, can be justly established, are those which the people establish

of their own choice. A government should be of the people, by the people, and for the people. In order to make an intelligent choice, it is necessary that those to be governed should have sufficient knowledge to enable them to act from their own judgment ; otherwise they are the willing dupes of demagogues and those thirsty for power. They will thus act blindly ; become the victims of their own folly. They forge the chains with which they are to fetter themselves.

If a person after receiving an elementary education should be able to gain only one more branch of knowledge, then let him endeavor to acquire a thorough knowledge of the principles of government. This will ever be useful to every man who has cast upon him the duties and responsibilities of a citizen. It is of double importance in a country having a free government, or one in which the right of suffrage is bestowed upon all citizens. There are fearful responsibilities connected with the exercise of this most precious right. One cannot safely assume such responsibilities unless he has the requisite knowledge.

If one should be called upon to exercise official duties under a government, how much more important it is that he should have a most thorough knowledge of the leading principles of good government. Suppose a man called upon to represent his district in the Legislature is ignorant of these fundamental principles, how can he be safely entrusted with this exalted duty of making laws? The rights involved are sacred and precious, and the act of legislation is the highest act one man can exercise over another.

While such special knowledge is most indispensable, all knowledge is very useful to the correct discharge of

the duties of a citizen. No one need fear obtaining a superabundance of knowledge.

The principle under consideration requires that a government take all necessary measures to disseminate knowledge among the people. This is to be done by the establishment of free schools, and rendering them easily accessible to all classes.

The words of President Monroe are as follows :

“ Let us promote intelligence among the people. It is only when the people become ignorant and corrupt, when they degenerate into a populace, that they are incapable of exercising the sovereignty. The people themselves become the willing instruments of their own ruin and debasement.”

15. *Labor and capital should be well regulated by a government.*

The rights of labor should be well defined and positively established. So also should those of capital. Labor being the parent of capital, should have first consideration, and be of paramount importance. The government should consider that without labor it could not exist. Neither could it without capital. But the one is the source of the other, and hence labor is the prime support of the government.

The measures of the government should chiefly be in support and protection of labor, while they should be in restraint and control of capital. Yet there should be protection of capital where it is necessary. Capital is a great power of itself. With its increase there is a proportionable increase of power. Such increase enables it to command everything under the government, even labor itself. It consequently assumes gigantic and most dangerous authority. It threatens even the power of the government itself. Hence, measures of the

government regulating capital should be in restraint of its illegal encroachments. These measures should always look to the stripping of dangerous acquisition of power. If one should contend for the government making unjust discriminations against capital, he would violate the principle of equality as well as the common rules of natural right. But a government should not adopt regulations of labor and capital to the injury of labor. The rights of each are to be duly respected.

When capital becomes full-grown, flushed with vigor, strong in such full growth, buoyed with hope, and utterly fearless of attack from the old parent, labor, we may well be prejudiced in favor of the parent. When we consider that there is proportional increase of power with increase of capital, and that such increase of power is dangerous, not only to the government itself, but to labor, then we should favor labor and measures which foster it. When we consider that the one is indispensable to the existence and advancement of the other, then we should be willing to the adoption of such measures as will justly regulate each. If capital should become an open-mouthed and roaring lion, do not let the docile and submissive lamb, labor, take too much alarm. With favored measures of the government, a cage can be constructed, and the mad and hungry beast placed beyond the possibility of doing the lamb harm.

A government cannot afford to illy regulate labor and capital so far as it has the power to make such regulation. There is so much of the happiness and the prosperity of a people dependent upon due regulation of capital and labor by the government.

16. *Offices should be created for the highest public good, to give dignity, strength, purity and energy to the administration of the laws.*

Public offices created by the government are always objects of profit to those who do not realize the use and intent of their creation. A number of people living under a government seem to be aware of no other purpose of an office than to obtain the means of livelihood by securing such office. Only the worthy should be permitted to hold public office. United to worthiness there should be capacity and capability. And, if it is an executive office, then there should be the qualification of firmness and wisdom. Those who are placed over the public treasury should be distinguished for financial ability, honesty and economy.

That offices are to be created for the highest public good, bars the idea of creating them simply for the purpose of making place for the inveterate office-seeker. This principle makes public good the standard for ascertaining and determining the number of public offices. If, then, an office has been created, or is sought to be created, which in no way conduces to the public good, it should be abolished, or denied. What the public good requires may be a matter about which public opinion widely differs. But, when it once settles upon what is the public good, the creation or abolition of the office should follow. No candid, patriotic citizen will contend for any more or any less offices than the highest public good requires.

Where a country is governed by laws, the highest public good will rest in such offices as add dignity, purity, strength and energy to the administration of the laws. It is apparent that these four requisites to administration are very desirable, if not indispensable. We can scarcely imagine a government without such virtues in its administration that would be fit to rule mankind.

In fact, without them, administration of the laws would be a failure.

Let us, then, have only such offices as are necessary for the highest public good, and ever retain a bright recollection of the words of Judge Story in relation to offices under a republican government :

“It should never be forgotten that in a republican government offices are established and are to be filled, not to gratify private interests, and private attachments, not as a means of corrupt influence and individual profit, and not for cringing favorites or court sycophants.”

17. *There should be due respect for the Christian religion.*

The Christian religion constitutes the foundation principles of good government. Its spirit should be inculcated and interwoven in the laws. We should ever remember that national morality is based on and results from religious principles.



## VIII. OUR CIVIL GOVERNMENT IS THE REIGN OF LAW.

LAW is a force. Thus we speak of the law of mechanics—the law of gravitation. The sun, moon and stars are held in obedience to a force. The atoms composing a body are held together by a force, and hence the law of cohesion. If you can imagine the absence of these forces, then chaos and disorganization would follow. What the atoms are to the larger body, individuals are to society, and society to the state. Law welds individuals together into society, and society into a state. Individuals are active atoms; society is an active and restless body; the state is active, and

should be progressive. Some individuals are weak; others are strong. One of the chief ends and first purposes of society is to protect the weak against the strong. To express the same idea in more apt language, each person is to be protected in the pursuit of his own true and substantial happiness, without depriving others of the same right. To this end, a force called law sprung into existence. Law is a rule of action. The superior in the state lays down the rule of action for the inferior. The laying down of this rule of action, and enforcing or executing it, is government.

Government must deal with rights and wrongs. Rights of persons "are such as concern and are annexed to the persons of men." When due to the person they are called rights; when due to other persons they are called duties.

Persons are natural—that is, such as they are formed by nature—or artificial, created by laws, and they are then called corporations.

There are two ways of regarding rights of natural persons, first, absolute, or such as belong to individuals; and, secondly, relative, or such as belong to the person from society.

The absolute rights are:

1. Personal security. This is obtained when we have the legal and uninterrupted enjoyment of life, limb, body, health and reputation. This absolute right is to secure the citizen against threats of bodily harm, or injury to his property, assault, battery, wounding, nuisances, slander, libel, or malicious prosecutions.

2. Personal liberty. This is the power to go when and where one may please without restraint, unless by due process of law. To interfere with this power, unless authorized by law, is false imprisonment. The

only restraint that can be imposed upon liberty by law is such as is necessary for the good of society.

The right of private property, which is the right of every person to the full use and disposal of his property without injury or diminution. Property is of two kinds. Personal property consists of goods, chattels, bonds, stocks, and the like. Real property is what is popularly called real estate.

In addition to the foregoing rights sacred to the human being, the writers and commentators on law mention others :

1. The limitations on the power of government, imposed by the nature of things, or by constitutions, and to vindicate them when violated by the government. This right is now abridged by the cry of "anarchy" when you endeavor to secure it to the people.

2. The regular administration of public justice. This means that a man shall have his case tried by a duly constituted court, clothed with right to hear the case, and the hearing and decision according to precedent and principle. This right is violated when the court proceeds and has no jurisdiction, or the judge sets up his individual and personal opinion in defiance of principle, statute or constitution. It means a right to justice "freely without sale, fully without denial, and speedily without delay."

3. The right of petitioning for redress of grievances. In Russia, the Czar Peter established a law that no subject might petition the throne until he had first petitioned two different ministers of state. In case he obtained justice from neither, he might then present a third petition to the prince, but upon pain of death if found to be wrong. The consequence was that no one dared to offer such third petition. The United States

government puts up a sign, "Keep off the Grass," and then puts men in jail for getting on the grass.

4. The right to bear arms, under due restrictions founded on the natural right of self-preservation and defence, when the laws of society are not sufficient to restrain violence.

5. The right to a constitution, and power to amend the same. We will take up this latter right and consideration of the Constitution of the United States subsequently, to the review of other matters necessary to a better understanding of such Constitution.

"In these several articles," says Blackstone, "consist the rights, or, as they are frequently termed, the liberties of Englishmen [or Americans], liberties more generally talked of than thoroughly understood, and yet highly necessary to be perfectly known and considered by every man of rank and property, lest his ignorance of the points whereon they are founded should hurry him into faction and licentiousness on the one hand, or a pusillanimous indifference and criminal submission on the other. And we have seen that these rights consist, primarily, in the full enjoyment of personal security, of personal liberty, and of private property. So long as these remain inviolate, the subject is perfectly free; for every species of compulsive tyranny and oppression must act in opposition to one or the other of these rights, having no other object upon which it can possibly be employed. To preserve these from violation it is necessary the Constitution of Parliament [or the United States] be supported in its full vigor; and limits certainly known be set to the royal prerogative [the government]. And, lastly, to indicate the rights, when actually violated or attacked, the subjects of England [citizens of the United States] are entitled, in the first

place, to the regular and free course of justice in the courts of law ; next, to the right of petitioning the King and Parliament [the President and Congress] for redress of grievances ; and, lastly, to the right of having and using arms for self-preservation and defence. And, all these rights and liberties it is our birthright to enjoy entire, unless where the laws of our country have laid them under necessary restraint—restraints in themselves gentle and moderate, as will appear upon further inquiry, that no man of sense or probity would wish to see them slackened.”

We must next regard the relations of persons. They are public and private. The public officers of the United States are executive, or those who execute the law, being the President and his Cabinet and subordinates, and those officers who administer and put the law in force in all departments of the government ; the judges, or those who interpret the law, and the officers necessary to assist them in the discharge of their duties, including their ministerial officers ; the Congress, or law-making power, with which body the President unites by reason of a veto power. His veto power only extends to provisional death of a bill, as it can be passed by a two-thirds vote of each house over his veto.

The President returns, with his objections, to the house in which it originated, any bill which he does not approve. If he does not return it within ten days (Sunday excepted) it becomes a law, unless Congress, by adjournment before the expiration of that time, prevents the return. All resolutions, orders or votes which require concurrence of both houses, except adjournments, must be presented to him ; if disapproved by him, they are proceeded with in the same manner as in case of a bill. He must be a native-born citizen, and

holds his office for the term of four years. In case of his removal or inability to act, the Vice-President performs the duties of the office, and Congress has power to declare what officers shall fill the office, when the Vice-President cannot, from any cause, perform the duties thereof. The President takes an oath before he enters upon the duties of his office, and his salary cannot be changed during his term of office. The people vote for electors, who vote for and elect the President. The President must have attained the age of thirty-five years, and must have been a citizen fourteen years before he is eligible. He can be impeached for treason, bribery or other high crimes or misdemeanors, and removed from office.

It is the duty of the President to commission all officers of the United States ; faithfully execute the laws ; receive ambassadors and other public ministers ; adjourn Congress, if the two houses cannot agree upon time of adjournment ; convene both, or either, upon extraordinary occasions ; give information and recommend measures to Congress ; he may require the opinion in writing of each officer of the executive departments ; grant reprieves or pardons, except in cases of impeachment ; fill up vacancies that happen during recess of Senate, by commissions which expire at the end of the next session ; by and with the advice and consent of the Senate, he appoints ambassadors and other public ministers, consuls, judges of the Supreme Court, and other officers, whose appointments may be authorized by law, and not provided for by the Constitution. He is the commander in chief of the army and navy, and of the militia of the States when called into active service.

Members of the House of Representatives are chosen for a term of two years. Each member must have

attained the age of twenty-five years, and been seven years a citizen of the United States. The Senate is composed of two Senators from each State, chosen by the Legislature, for a term of six years, and a Senator must have attained the age of thirty years, and been nine years a citizen of the United States before he is eligible. The Senate is the court of impeachment, and when sitting as such court, Senators are on oath or affirmation. The Chief Justice of the Supreme Court presides when the President is tried before this court. To convict in this court a two-thirds vote is required. The Vice-President is president of the Senate; in his absence, or when he exercises the office of President of the United States, the Senate chooses a president *pro tempore*. The Senate, like the House, is judge of the election, returns and qualifications of its own members. A majority constitutes a quorum to do business, but a smaller number may meet and adjourn from day to day. It can make rules for its proceedings, compel attendance of members, punish them for disorderly conduct, and, with the concurrence of two-thirds, expel a member. A journal is to be kept and published, except such parts as may, in the judgment of the Senate, require secrecy. The Senate can only propose amendments to revenue bills, as such bills must originate in the House of Representatives. The Senate can advise and consent to treaties by a two-thirds vote. No State, without its consent, can be deprived of its equal representation in the Senate. If a vacancy occurs during the recess of the Legislature, the executive of the State makes a temporary appointment until the next meeting of the Legislature. Members of the Senate and House are privileged from arrest during their attendance and going to and returning from the Senate or House, except for

treason, felony and breach of the peace. They are not answerable in any other place for a speech or debate in the House or Senate. They cannot be appointed to an office created during their term, or to one of which the emoluments have been increased during such term, nor can they hold another office. They cannot be electors for President and Vice-President. By amendment, a person who, as a State or Federal officer, took oath to support the Constitution, and afterwards engaged in rebellion against the United States, cannot be a Senator or Representative, unless both houses have, by a two-thirds vote, removed the disability. The Vice-President has no vote in the Senate, unless the Senate be equally divided.

We next come to the last class of officers, the judges of the courts. They hold office during good behavior. We have the Supreme Court and such inferior courts as Congress shall from time to time ordain and establish. The questions concerning the jurisdiction of these courts belong to the technical branches of legal practice, and I shall not take up time to discuss them.

In the United States a public office is not property, and in no sense does the officeholder arise above the dignity of a public servant. Too many of our public officers are painfully oblivious of their true relations to the public.

We have now seen that the government employs officers to make, interpret and execute the laws. By the union or co-operation of this trinity of functions, we, the people, govern the United States. How? By law. The law should be no respecter of persons, because it is a fundamental principle that "all men are created equal, and endowed with certain unalienable rights; among these are life, liberty and the pursuit of

happiness ; that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed." Before the law, then, all men are equal. The poor man is the equal of the rich ; the ignorant of the intelligent ; the lowest in the social scale is the equal of the highest ; the tramp on trial for any offense is entitled to the same application of rules of practice, evidence and remedies as the millionaire. All men are equal before the law, and not in a social, intellectual, physical, pious or moral sense. The last-named qualities constitute an unbridged gulf of inequality. The truth may be stated in this way : As the law governs, it loses sight of persons or social inequalities while so governing.

We should next inquire into the sources of law. We have now before us the different persons who constitute a state or nation, and have seen what their rights are, and that it is the business of law to secure to them such rights, and the duty of governments to administer and enforce the law.

Rightly understood, law is the offspring of society. It is an effect, not a cause of society. You first have a necessity in society, and then a law to secure the rightful demand of such necessity. We first have the right, then the law to secure it. Rights exist in the nature of things and relations of men. They are instantly perceived and acknowledged by some penetrating power of the human mind, and hence advocated by those so perceiving and recognizing them. Eventually every one comes to recognize such rights, or a majority do so, and then it is only a question of securing the rights by law. What the majority recognize as right becomes a law. The minority then say it is a bad law, because such minority do not recognize the right.

Like all human inventions, government is not perfect ; therefore, human law is not perfect. It is the nearest approach to perfection that we are able to make. He who denies the right of the majority to govern would destroy all democratic government. Freedom of speech is the right left the minority. They can attack the bad law, as they call it, but must obey it. If they can obtain a majority to see it as such minority does, then the minority is transformed into the majority. The real law which governs us is the rule of action perceived and recognized by the majority as right.

Aristotle said, "Man is a political animal." That learned writer on elementary law, Smith, said : "History does not reach back far enough into the past to reveal a civilized people without some form of political organization." We can accurately state the fountain of law is the desire and action of political organizations to secure and protect rights. The sequence is municipal law. This is defined "as a rule of civil conduct prescribing what is right and prohibiting what is wrong." It is the business of the government of the United States to provide and enforce municipal law. The body making the law is called the sovereign power. The people of the United States are sovereign. They have delegated to the Congress a part of their sovereignty, reserving to themselves ultimate sovereignty, because the people have the right to change the instrument so delegating the powers, viz.: the Constitution. The preamble to the Constitution is that "we, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish

this Constitution for the 'United States of America.'"  
This Constitution went into effect March 4, 1789.

A constitution is defined as "a collection of principles and rules established by the sovereign body in accordance with which the government of the state is to be conducted" (Smith's Elementary Law). The government of the United States not only protects the rights, life liberty and property of the citizens, but, as is evidenced by the preamble to the Constitution, seeks to provide for the positive welfare of citizens. I will quote as to the usual functions of government from Woodrow Wilson's work "The State." He divided them into *constituent* and *ministrant*. The *constituent* are functions necessary to proper administration of justice, enumerated as follows: (1) The keeping of order and providing for the protection of persons and property from violence and robbery. (2) The fixing of the legal relations between man and wife, and between parents and children. (3) The regulation of the holding, transmission and interchange of property, and the determination of liabilities for debt and for crime. (4) The determination of contract rights between individuals. (5) The definition and the punishment of crime. (6) The administration of justice in civil causes. (7) The determination of the political duties, privileges and relations of citizens. (8) Dealings of the state with foreign powers, the preservation of the state from external danger or encroachments, and the advancement of its international interests.

The *ministrant* functions denote all the other ordinary functions, as follows: (1) The regulation of trade and industry. (2) The regulation of labor. (3) The maintenance of thoroughfares. (4) The maintenance of postal and telegraph systems. (5) The manufacture

and the distribution of gas (or electricity), the maintenance of waterworks, etc. (6) Sanitation, including the regulation of trades for sanitary purposes. (7) Education. (8) Care of the poor and incapable. (9) Care and cultivation of forests, and like matters, such as stocking the rivers with fish. (10) Sumptuary laws, such as prohibition laws.

I believe the foregoing to be a perfect compendium of the functions of government. To perform these functions, different kinds of government have been devised by man. The first was theocracy, or direct government by God. It ought to be needless to add this form of government has disappeared in form and name. Then there was the patriarchy, which was government of the first father of the family, as long as he lived. Next is monarchy. This is of two kinds: Absolute or pure monarchy is that form of government in which all the powers are vested in a single person called a monarch; and constitutional monarchy, which is that form of government where the monarch is not irresponsible, and governs according to his own will, but has limitations imposed upon him by a constitution; he is not an absolute sovereign; Great Britain is an example of a limited monarchy. Next is aristocracy. This form of government is where the powers are vested in the hands of a few persons. In its original sense it means government by the best or a council of select members. Lastly, we have democracy. This means government by all the people. It is the coming together of all the people to make the laws—an aggregate assembly of all free members of a community. The government of the United States is a representative democracy or republic.

We combine the strength and wisdom of all forms of

government. In the language of Blackstone, "Where the right of making the laws resides in the people at large, public virtue, or goodness of intention is more likely to be found than either of the other qualifications of government. Popular assemblies are frequently foolish in their contrivance, or weak in their execution, but generally mean to do the thing that is right and just, and have always a degree of patriotism or public spirit. In aristocracies there is more wisdom to be found than in other frames of government, being composed, or intended to be composed, of the most experienced citizens; but there is less honesty than in a republic, and less strength than in a monarchy."

While we have States and State governments, and these performing many functions of government, as before adverted to and pointed out by Mr. Wilson, yet we also have a Federal state. The States have surrendered to the Federal state full power in certain matters of general and common welfare, reserving to themselves limited power to such affairs as have not been surrendered to the Federal state. To be explicit, the Federal state is the United States. The Federal state cannot be dissolved any more than can be any one of the States. A State cannot secede from the Federal state any more than a county can secede from a State. In some matters the Federal state is supreme. In others, the States composing the Union are supreme. You ask in what matters the Federal state is supreme, and the answer is contained in the Constitution of the United States. The steps taken which led up to the formation of our Federal state were: The Colonies felt a necessity for mutual aid, and hence agitation for association to this end; oppression by England in

matters of taxation ; denial of trials in the Colonies ; claiming right to legislate in Parliament for the Colonies, and other minor grievances associated the Colonies for mutual defense, enactment of the Declaration of Independence, Articles of Confederation, which did not erect a Federal state, but a mere league without sovereign power. This was soon found to be defective and useless ; and then was enacted the Constitution. This is an act passed by the sovereign people. It is the fundamental written law of the Federal state.

The United States Supreme Court, in the case of *McCulloch against Maryland* (4th Wheat., 316), speaking through Chief Justice Marshall, the most brilliant of all that court's Chief Justices, said :

“ The powers of the general government, it has been said, are delegated by the States, who alone are truly sovereign, and must be exercised in subordination to the States, who alone possess supreme dominion. It would be difficult to sustain this proposition. The convention which framed the Constitution was indeed selected by the State Legislatures ; but the instrument, when it came from their hands, was a mere proposal, without obligation or pretensions to it. It was reported to the then existing Congress of the United States, with a request that it might be submitted to a convention of delegates chosen in each State by the people thereof, under the recommendation of its Legislature, for their assent and ratification. This mode of proceeding was adopted by the convention, by Congress and by the Legislatures ; the instrument was submitted to the people ; they acted upon it in the only manner in which they can act safely, effectively and wisely on such a subject—by assembling in convention. It is true they assembled in their several States ; and where else would they have assembled ? No political dreamer was ever wild enough to think of breaking down the lines which separate the States, and of compounding the people into one mass. Of consequence, when they act, they

act in their States. But the measures they adopt do not on that account cease to be the measures of the people themselves, or become the measures of the State governments.

“From these conventions the Constitution derives its whole authority. The government proceeds directly from the people, is ordained and established in the name of the people, and is declared to be ordained in order to form a more perfect union. \* \* \* At the end it is to be said that there is a sovereignty of the States created by the people of the several States, and a sovereignty of the United States derived from the people of the United States, and to be exercised and enjoyed freely within the limits prescribed by the Constitution.”

The scheme of dual government is thus tersely summed up by Mr. Boutwell, in his work on “The Constitution of the United States at the End of the First Century” :

“The United States, as a government, does not derive its existence from the States in their political, corporate capacity, but from the whole people, and, independent of the fact that, for certain purposes not inconsistent with purposes for which the national government was created, the same people owe allegiance to the several States, that the nation might exist, even if the States, as political organizations, should disappear, and finally that the States, as political organizations, have no constitutional power to interfere with the action of the general government.”

The powers of the Federal state are those granted to it, either expressly or by implication, in the Constitution of the United States. All the other powers are reserved to the States. To quote Mr. Smith again, from his excellent work : “It is now generally agreed that the construction of the Constitution of the United States should be liberal, that the Federal government should be allowed to exercise not only powers expressly dele-

gated to it, but also those incidental powers necessary to carry the express powers into execution."

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made under authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

The Constitution is to be construed according to the sense of the terms and the intention of the makers and parties. Where the words are plain and clear, and the sense distinct and perfect, it interprets itself; the nature and objects, scope and design, as to parts and as to the whole, and that sense is to be adopted which, without departing from the literal import of the words, best harmonizes with the nature and objects, the scope and design of the instrument. Whenever it is a question of power it should be approached with infinite caution, and affirmed only on the most persuasive reasons. The most unexceptionable source of collateral interpretations is from the practical expositions of the government itself in its various departments upon particular questions discussed and settled upon their own single merits.

The Constitution is to be construed as a frame or fundamental law of government, established by the people of the United States according to their own free pleasure and sovereign will, for the common benefit of the government, and not for the profit or dignity of the rulers. The interpretation is to be reasonable, and such as will give efficacy and force to the government, rather than such as will impair its operations and reduce it to a state of imbecility. No interpretation of the words can be a sound one which narrows their import

so as to defeat the objects. Unless some clear restriction is deducible from the context, a power is to be construed as coextensive with its terms; the restriction may arise by implication; the Constitution is to be construed, not to be framed; a power in general terms is not to be restricted merely because it may be abused.

Every form of government unavoidably includes a grant of some discretionary powers, and must be adapted to existing manners, habits and institutions of society, which are never stationary. On the other hand, a power is not to be enlarged beyond the fair scope of its terms merely because the restriction is inconvenient. It should not be lost sight of that the government of the United States is one of limited powers; and a departure from the true import and sense of its powers is, to that extent, the establishment of a new constitution. The means required to execute a power are to be deemed a part of the power itself; there is no solid objection to implied powers; and implied powers are not denied merely because another clause enumerates certain powers. Technical words are to receive a technical meaning, and the same word is not construed in the same sense whenever it occurs in the same instrument, because statesmen and practical reasoners weigh whole clauses and objects, and not single words, as philologists or critics. The constitution of a government does not, and cannot, from its nature, depend in any great degree upon mere verbal criticism, or upon the import of single words. The Constitution unavoidably deals in general language. It did not suit the purpose of the people, in framing this great charter of our liberties, to provide for minute specifications of its powers, or to declare the means by which those powers should be carried into execution. It was foreseen that it would be perilous and difficult, if

not an impracticable task. The instrument was intended to provide not merely for the exigency of a few years, but was to endure through a long lapse of ages, the events of which were locked up in the inscrutable purposes of Providence. It could not be foreseen what new changes and modifications of power might be indispensable to effectuate the general objects of the charter ; and restrictions and specifications, which at the present might seem salutary, might in the end prove the overthrow of the system itself. Hence its powers are expressed in general terms, leaving the Legislature from time to time to adopt its own means to carry out legitimate objects, and to mould and model the exercise of its powers as its own wisdom and the public interests should require. But the policy of one age may not omit that of another. The Constitution is not to be subject to fluctuations. It is to have a fixed, uniform, permanent construction. It should be, so far at least as human infirmity will allow, not dependent upon the passions or parties of particular times, but the same yesterday, to-day and forever. Constitutions are not designed for metaphysical or logical subtleties, for niceties of expression, for critical propriety, for elaborate shades of meaning, or for the exercise of philosophical acuteness or juridical research. They are instruments of a practical nature, founded on the common business of human life, adapted to common wants, designed for common use, and fitted for common understandings. The people make them, the people adopt them, the people must be supposed to read them, with the help of common sense, and cannot be presumed to admit in them any recondite meaning or extraordinary gloss. These principles and rules for interpretation of the Constitution are selected from Story's "*Commentaries on*

the Constitution." He was a great constitutional authority, and his words should now have great weight:

What cannot a State do? It cannot exercise sovereignty when it has delegated it to the Federal state. Where the delegation is exclusive, the State is precluded of the exercise of such sovereignty. This exclusive delegation exists in three cases: 1. Where the authority is granted to the Federal state, and prohibited to the States. 2. Where the authority granted to the Federal state and a similar authority in the States would be contradictory and repugnant. 3. Where exclusive authority is granted to the Federal state in express terms.

In some instances there is a concurrent power of the Federal state and the States.

By the terms of the Constitution, Congress has power to regulate commerce among the States. No State can enter into any treaty, alliance or confederation, or surrender a fugitive, on its own motion, upon requisition from a foreign nation; grant letters of marque and reprisal, coin money, emit bills of credit, make anything but gold and silver coin a tender in payment of debts, grant title of nobility, nor pay any debt incurred by aid of insurrection, rebellion, or pass an *ex post facto* law, bill of attainder, or a law impairing the obligation of a contract.

By and with the consent of Congress, a State can lay a duty on exports or imports, and tonage duty; keep troops and ships of war in time of peace; enter into an agreement with any other State or foreign power; engage in war. When there is actual invasion or imminent danger that will not admit of delay, a State need not wait for consent of Congress. In case of domestic violence, on application of the Legislature, if in session, or the executive of the State if the Legislature is not in session, the Federal state is to protect the State, and

send troops for such purpose. The Federal state guarantees to each State a republican form of government. Full faith and credit is to be given in every other State to the public acts, records and judicial proceedings of each State ; the manner of proving those acts and records is prescribed by Congress. A citizen of one State is a citizen of the United States, and cannot be deprived of the privileges and immunities of citizens in the several States. New States may be admitted into the Union, but no new State may be formed within the jurisdiction of another, or by junction of two or more States, or parts of States, without the consent of the Legislatures of such States, as well as of Congress.

The law-making power is vested in the Congress. In the enumeration of the powers of Congress are the following : To lay and collect duties, imposts and excises ; pay the debts ; provide for the common defenses and general welfare ; borrow money on credit of the United States ; regulate foreign and domestic commerce ; establish uniform rules for naturalization, and uniform laws of bankruptcy ; coin money and regulate its value, and the value of foreign coin ; fix the standard weights and measures ; establish post-offices and post-roads ; punish counterfeiting ; promote the progress of science, and useful arts and authorship ; to define and punish piracy ; declare war ; grant letters of marque and reprisal ; make rules concerning captures ; raise and support armies ; provide and maintain a navy, and make rules for the government of the army and navy ; provide for arming and equipping the militia, and call it out to execute the laws ; suppress insurrections and repel invasions ; to exercise exclusive jurisdiction over the district fixed for the seat of government, and over forts magazines, arsenals and dockyards, and

to make all laws necessary and proper to carry into effect the powers vested by the Constitution in the government of the United States. Congress may fix the time and place of choosing electors for President and Vice-President, and the day on which they shall cast their votes. Congress may consent that a person holding office under the United States can accept of a present, emolument, office or title from a foreign state. Congress can propose amendments to the Constitution by a two-thirds vote, and make rules and regulations to govern the territories. Congress cannot pass a bill of attainder or *ex post facto* law, or lay a tax or duty on exports from a State, or give a preference to the ports of one State over those of another State, or compel vessels bound to or from one State to enter, clear or pay duties in another. An *ex post facto* law is one pertaining to criminal matters; retrospective laws pertain to civil cases. The latter may be constitutional. The former, never. From the cases of *Calder against Bull* (3 Dall., 386), *Cummings against State of Missouri* (4 Wall., 277), and the case of *ex parte Garland* (4 Wall., 333), it is made to appear that an act of Congress which makes an act criminal which was not criminal when the act was committed, or makes the act a greater crime, or provides for greater punishment than was provided when the crime was committed, or requires less or different testimony to the injury of the defendant than was required at the time of the commission of the offense, is an *ex post facto* law.

From the power of Congress to regulate interstate commerce, we have the following practical results: Commerce means traffic and intercourse, and includes the carriage of passengers, as well as of goods, and comprehends navigation; the complete internal com-

merce of a State is reserved to the State ; until Congress acts, a State has full power over the navigable waters within the State, and can erect dams, bridges, and remove obstructions ; the control of the State is absolute between high and low-water mark ; States may improve navigable waters, and charge tolls for the use thereof within the limits of the State ; a State cannot impose a more onerous burden on products of another State brought therein for sale or use than upon like products of its own soil or citizens ; a State cannot impose a tax upon cars used for transportation into, out of or across it. Telegraph companies engaged in foreign or interstate business, are subject to control of Congress as to such business, and to the States as to the business exclusively within the State limits ; a tax upon receipts for interstate or foreign business or license tax for such privilege of such companies is invalid ; goods placed in the custody of a carrier to be transported are subjects of interstate commerce, and not taxable by the State whence they come, or through which they pass ; a State tax upon "drummers" representing principals from another State is void ; a State tax upon original packages is void, or imposition of a license tax upon an importer.

The States have a right to legislate upon and regulate matters necessary for local purposes which only incidentally affect commerce, as pilots, wharves, harbors, roads, bridges, tolls, police, quarantine, etc. These are not so much regulations of commerce as of police. States may pass and enforce prohibition of the sale or manufacture of intoxicating liquors. It is for the State to say whether or not a business shall be carried on within its limits.

A State tax upon imported goods after they pass into

the hands of the purchaser, although in the original packages at the time of the levy, is valid ; a State tax upon gross receipts of a railroad extending into and operating in different States is void ; a State tax upon vessels as property, according to their valuation, is valid ; a fee imposed by the State upon a vessel passing a quarantine station is valid ; and a wharfage rate which is fair and reasonable, imposed by a municipal corporation, is valid.

A State can enact a bankruptcy law, or insolvent law, which operates in the discharge of contracts made within the State, between parties and citizens of such State, subsequent to the passage of such act.

We must now review some general duties and powers of our government derived from the Constitution. Congress has power to coin money and borrow money. The results of the decisions of the United States Supreme Court, in legal tender cases and other kindred cases, are as follows :

1. That the necessary notes are valid, as legal tender, in payment of private debts.
2. That "the obligation of a contract to pay money is to pay that which the law shall recognize as money when the payment is to be made."
3. That Congress can "issue the obligations of the United States in such form, and impress upon them such qualities as currency, for the purchase of merchandise and the payment of debts as accord with the usage of sovereign governments."
4. The question as to when it is wise or expedient to resort to this means for currency, is a political question to be settled by Congress, and not the courts.
5. That Congress is not to be restrained nor interfered with by the courts in the exercise of its discretion

as to choice of means for carrying into effect a power granted, unless a plain provision of the Constitution is violated.

Among other rights secured by the Constitution is the right to the use of the writ of *Habeas Corpus* to test the legality of an imprisonment. This writ cannot be suspended unless public safety requires it in time of rebellion or invasion. Even then the writ issues, as of course, and on the return the court determines whether the party applying is denied the right of further proceeding with it. We have also secured to us the right to the free exercise of speech, religion and the press ; to peaceably assemble, and to petition the government for redress of grievances ; also the right to be secure against unreasonable searches and seizures. No search-warrant can issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized. In time of peace, no soldier, without your consent, can be quartered in your house. No person can be held to answer for a capital or infamous crime unless upon presentment, or indictment, except in cases arising in and under military rule in time of war or public danger. No person can be twice tried for the same offense, or be compelled to be a witness against himself in a criminal case ; the accused shall have a speedy and public trial in the State and district where the crime shall have been committed, by an impartial jury of such State and district ; he shall have compulsory process for witnesses, be confronted with the accusation and witnesses against him, and have assistance of counsel for his defense ; he is not subject to excessive bail or fines, or cruel and unusual punishment ; no right of the citizen can be abridged on account of race, color

or previous condition of servitude. In suits at common law, where the amount in dispute exceeds twenty dollars, the trial by jury cannot be taken away, and the fact once tried by a jury cannot be re-examined in any court of the United States otherwise than according to the rules of common law.

Life, liberty or property cannot be taken without due process of law, and private property for public use can only be taken for such use upon just compensation.

There have been very many attempts to define what is meant by "due process of law." In my judgment it means that the proceedings against the rights of persons, as represented by the terms life, liberty and property, shall be agreeable to the maxims, customs and unwritten laws which were the birthright of our ancestors and our inheritance. The courts of a State, as well as the courts of the United States, have the right to inquire, upon a review of a criminal case, whether the accused has been convicted by "due process of law."

This great charter of our liberties, proceeding from the sovereign people, recognizes principles beneath the rules promulgated in the Constitution. The principles of the common law, which is reason and common sense applied to the affairs of men, existed before the Constitution, and will always exist. Thus, before the Constitution, private property could not have been taken for public use without just compensation; the right to security in one's house was established at common law, because one's house was his castle.

A constitution is the fundamental law of the land. Whatever is sought to be made as law, must conform to this instrument. It is the only bill of rights needed by the United States, and the "rage of theorists to make constitutions a vehicle for the conveyance of their own

crude and visionary aphorisms of government, requires to be guarded against with the most unceasing vigilance."

In addition to the Constitution, treaties made in pursuance thereof and international law regulate the affairs of our people, and we are obliged to yield obedience to these two classes or laws, the same as we do to other rules or statutes.

The Federal state does not possess a complete unwritten system of law. By section 34 of the Judiciary Act of 1789, it is provided: "The laws of the several States, except where the Constitution, treaties or statutes of the United States shall otherwise recognize or provide, shall be regarded as rules of decision in trials at common law in the courts of the United States in cases where they apply. This section applies to positive statutes of a State, and the construction thereof by local tribunals, and to rights and titles to things of permanent locality, such as rights and titles to real estate, and other matters immovable in their nature and character. \* \* \* And it does not apply to contracts and other instruments of a commercial nature, the true interpretation and effect whereof are to be sought, not in the decisions of local tribunals, but in the general principles and doctrines of commercial jurisprudence." (Swift vs. Tyson, 16 Peters, 1. Story, J.)

The order or precedence of the law by which our great country is governed is: The Constitution of the United States; treaties made in pursuance thereof; the statutes of the United States; the Constitution of a State; the State statutes; the ordinances of municipalities, cities, boroughs, townships, etc., and the common law, which is determined by reports of decisions of cases in courts.

We have been taught that the right of property is a right ; that the honest fruits of your honest labor belong to you. The fruits of this labor are represented by property, personal or real. We have seen that the Constitution of the United States secures to us the right of property. There are theorists who deny the right of property. These theorists have a philosophy compatible with different stages of civilization : 1. In anarchy there is no permanent ownership, but mere possession coupled with no tenure. 2. Socialistic, or communistic, which destroys individual ownership, and recognizes only property in a community. 3. Individual ownership, or possession, which is called private property. The third class is recognized and secured by the Constitution of the United States. Communism can have no lodgment in the bosom of advancing civilization. The principle is admirably stated by Montesquieu : *"Just as men have renounced their natural independence to live under political laws, they have also renounced the natural community of goods to live under civil laws. The former laws gave them liberty, the latter property."*

There are some fundamental rules, applicable to the ownership of property, which ought to be generally known :

1. *Sic utere tuo ut alienum non lædas.* So use your own property as not to injure that of others.
2. Property is held, and must be used, subject to regulations and provisions for preserving and promoting the health and welfare of the community.
3. Property may be taken by due process of law to satisfy the owner's debts.
4. Property is owned or possessed subject to taxation.
5. Property is subject to the right of eminent

domain—the right of the public to take it for public use upon making just compensation.

All these rights belong to citizens of the United States. And who is a citizen? One who is born within the United States and subject to its laws ; or, one who was not born therein, but who becomes naturalized. One who is a citizen of the United States is a citizen of the State in which he has a legal residence. Aliens under the protection of our laws are permitted to enjoy the rights of citizens, except in those instances where the enjoyment of the right is made to depend upon citizenship.

And now, at far greater length than I had expected to go, I have endeavored to point out the theory and foundation of the government of the United States. To compress, in the compass of one lecture, the fundamental rules of action has been exceedingly difficult. The law which is needful to be known for a comprehensive view of government I have sought to bring to your attention.

Law is a force ; this force, in civil affairs, we name government. In the language of Owen Meredith, I say :

“Still the watch-fire must burn, still the watchman must wake,  
And still force arm to keep what force arms to take.”

The watch-fires of our government are the flames of patriotism ; the watchmen its officers and public servants ; the force in their hands the law. Our rights and liberties will be kept by law. The law flows from the people. The force of the people, as a government, is law. We are not governed, in our civil affairs, by the capricious will of a monarch, emperor or tyrant, but by law founded upon the inseparable and inherited rights of men. Let us hope it shall always be so.

## IX. STATEMENT OF PRINCIPLES OF CIVIL GOVERNMENT.

“Principles are from God ; rules are made by man.”

EQUALITY of rights, equality of burdens, and equality of privileges. Reverence and fear of God, and acknowledgment to Him for all blessings as a nation. Love, liberty and unity, the palladium of our political safety and prosperity. Always exalt a just pride of patriotism. Avoid the necessity of an overgrown military establishment. Avoid discriminations between sections. A government for the whole, and no alliance between parts. Respect for authority, compliance with law, acquiescence in measures. A right to alter the Constitution. No obstructions to the execution of the law. The will of the nation, and not the will of a party to govern.

Administration should be the organ of consistent and wholesome plans, digested by common council, and modified by mutual interest, and not the organ of ill-concerted and incongruous projects of faction. Party spirit is to be curbed, and the door closed against the ingress of foreign influence. Those entrusted with administration are not to encroach on others, *i. e.*, each department is to be confined to its own constitutional sphere. Amend the Constitution in a way which the Constitution designates.

National morality must be based on, and result from, religious principles. Enlighten public opinion by a general diffusion of knowledge. Cherish public credit, and make vigorous exertions in times of peace to discharge debts.

Observe good faith and justice toward all nations. In extending our commercial relations we are to have as little political connection as possible with foreign nations. We are not to become implicated in foreign affairs by artificial ties. We are to steer clear of permanent alliances, as far as possible, but have no infidelity to engagements, as honesty is the best policy. Harmony and liberal intercourse with all nations. We are to guard against the impostures of pretended patriotism.

When your services are demanded by the general voice of the people, never refuse to bestow them. The Constitution is meant for the home-bred, unsophisticated understandings of our fellow-citizens. Our union is a political necessity. The welfare of the people is to be considered before the welfare of any single interest, or of any single man. Capital should be the servant of labor, and not its master. Nor have I entertained any thought of promoting any alteration in the Constitution but such as the people themselves should see and feel to be necessary and expedient, according to the Constitution itself.

A general dissemination of knowledge and virtue throughout the whole body of the people. An unshaken confidence in the honor, spirit and resources of the American people. All are to range themselves under the will of the law, and unite in common efforts for the common good. Though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable. The minority possesses its equal rights, which equal laws must protect. Equal and exact justice to all men, of whatever state or persuasion, religious or political. Absolute acquiescence in the decision of the majority is the vital principle of republics.

Economy in public expense that labor may be lightly burdened. Constitution is the cement of the Union. As the creature must be subject to the Creator, so corporations must be subject to law. Ask for nothing but what is right, and submit to no wrong. Civil government should guarantee the divine right of every laborer to the fruits of his toil.

The people of the United States, by the Constitution, establish a national government, with sovereign powers, legislative, executive and judicial. Our Constitution is not to be interpreted with the strictness of a private contract.

The only hope a family can have to maintain its fame and distinction is the preservation of virtue in its decendants. The only basis of just legislation is the highest good to the greatest number. In free governments the ordinary securities against abuse are found in the responsibilities of rulers to the people, and in the just exercise of their elective franchise, and ultimately in the sovereign power of change belonging to them in cases requiring extraordinary remedies.

Government is a practical thing made for the happiness of mankind, and not to furnish a spectacle of uniformity to gratify the schemes of visionary politicians. The business of those who are to administer is to rule, and not to wrangle. All should be represented and all equal in rights and privileges. One of the surest means of preserving peace is by being always prepared for war. A good government implies two things: 1. Fidelity to the objects of government. 2. A knowledge of the means by which those objects can be best obtained. The aim of every political constitution is: 1. To obtain for rulers men who have most wisdom to discern, and most virtue to pursue, the common good of society.

2. To take the most effectual precautions for keeping them virtuous whilst they continue their public trust. Four qualifications of a representative: 1. Fidelity. 2. Sound judgment. 3. Competent information. 4. In-corrutable independence.

The President is the representative of the whole people in the aggregate. The evil of all free governments is a tendency to overlegislation. Every power ought to be proportionate to its objects. One of the great objects of the Constitution was the encouragement and protection of navigation and trade. The people should know what money is expended, for what purposes, and by what authority.

The legislative, judicial and executive powers are to be separate. Energy in the executive is the leading character in the definition of a good government. The ingredients of energy are: 1. Unity. 2. Duration. 3. Adequate provision for its support. 4. Competent powers. Those of safety are: 1. Dependence on the people. 2. Responsibility to the people. Responsibility is of two kinds: 1. Censure. 2. Punishment.

It should never be forgotten that, in a republican government, offices are established and are to be filled, not to gratify private interests and private attachments; not as a means of corrupt influence or individual profit; not for cringing favorites or court sycophants, but for the purposes of the highest public good, to give dignity, strength, purity and energy to the administration of the laws. Power is perpetually stealing from the many to the few. We have a government of laws, not of men. The will of the people is, and ought to be, supreme. Supremacy of laws is attached to those only which are made in pursuance of the Constitution.

The prescriptions in favor of liberty ought to be

leveled against that quarter where the greatest danger lies, viz.: that which possesses the highest power. A law is always presumed to be constitutional. A law may be constitutional in part, and void in part. If the good can be separated from the void part, then the good part stands.

The democratic principle of government is deposited in the House of Representatives. In public service the less the profit the greater the honor. Democracy must harmonize sects, factions and interests, and prevent the alternate oppression of rich and poor, debtors and creditors, the landed, manufacturing and commercial interests.

The purse of the nation and its sword ought never to get into the same hands. When once begun, the tendency of abuses is to grow and multiply. The sentiments of the particular circle in which one moves is commonly mistaken for the general voice of the whole people. A government must be suited to the habits and genius of the people it is to govern, and must grow out of them. An increase of population will, of necessity, increase the proportion of those who will labor under all the hardships of life and secretly sigh for a more equal distribution of its blessings.

Every nation is to be regarded in two relations—first, to its own citizens; and, secondly, to foreign nations. It is, therefore, not only liable to anarchy and tyranny from within, but has wars to avoid, and treaties to obtain from abroad. Bribery gives the rich man more votes than the poor man; hence, the rights of the poor man cease to be secure. The means of defense against foreign danger have been always the danger of tyranny at home.

Nature has given the smallest insect the power of

self-defense, and the same power is essential to man, the State and the nation. There are two sorts of bad government—first, that which does too little ; secondly, that which does too much ; that which fails through weakness, and that which destroys through oppression. Benjamin Franklin said : When a table is to be made, and the edges of the planks do not fit, the artist takes a little from both, and makes a good joint ; so in government both sides must part from some of their demands in order that they may join in some accommodating proposition. People do not act from reason alone ; therefore the rich take advantage of the passions of the poor, and make these the instruments for oppressing them.

It seems there never has been, and never can be, a civilized society without an aristocracy ; government must keep the aristocracy from doing mischief to the other people. Those who feel the burdens of taxation can best judge of its righteousness. It is essential that a certain degree of distrust ought to be centered upon all men having power of government, because the tendency of human nature is to abuse power possessed.

All power remains in the people that has not been given up in the Constitution derived from them. Foreign powers, with American possessions, favor policies attached to their interests. The government should be in the hands of statesmen as servants of the people, and not in the hands of masters of the people. The rulers should be men hating covetousness. The polar star of our political heavens is the preservation of the rights of the people, and that great and small officers shall return to the mass of the people from which they were first taken, in order that they may respect the rights and interests which are again to be personally valuable to

them. The ignorant and dependent are dangerous guardians of liberty, and are not impregnable against the wiles of the rich and aristocratic. The virtue and public spirit of the common people should not be depressed.

Every society has the power to declare on what conditions new members shall be admitted, and a nation has the same right. Confidence is the road to tyranny and misgovernment, and a shield for the misdeeds of officers. The ambition which aspires to offices of dignity and trust is not an ignoble or culpable one. The Constitution marks out the mode and form of the government, but men are the substance and do the governing.

The Federal state and the States are different institutions for the good of the people of the States ; it is power taken out of the left hand, where it cannot be as well used, and placed in the right hand, where it can be better used. Good laws should be tried long enough to prove their merits. The government can only end in despotism when the people shall become so corrupted as to need despotic government, being incapable of any other. Much of the strength and efficacy of government depend upon the good opinion which the governed have of their government. Private opinions must be sacrificed for public good. The wisdom and authority of the legislator are seldom victorious in a contest with the vigilant dexterity of private interests.

Man has more to fear from the passions of his fellow-man than from the convulsions of the elements or the wrath of God. A nation of slaves is always prepared to applaud the clemency of a master who, in the abuse of power, does not proceed to the last extreme of injustice and oppression. Industry provides the subject for

accumulation, but parsimony accumulates capital, and just laws bar unequal concentration of capital. The laws can be no higher than the morals and disposition of the people to whom they are to apply.

Equality before the law causes no war or strife. Men have capacity for virtue and proneness to evil, and the laws must be adopted to strengthen the former, and to check and restrict the latter. The true patriot is born for his country as well as for himself; the false patriot for himself, and his country by pretence. A country filled with patriots is a well-fortified country.

The wise man legislates to root out the evils of avarice, poverty, riches and oppression. The levy of war against the republic, by means of dangerous wealth, and special legislation in the interest of wealth, is no less treason than levying war by means of arms. Both methods ought to be punishable. Citizens ought to contribute to the support of the government according to their respective abilities. Obedience or disobedience to this principle makes equality or inequality of taxation. The best government is of the people, by the people and for the people; and the will of the people, legally expressed, is the law of the land.



## X. ANALYTICAL REVIEW OF MONTESQUIEU'S SPIRIT OF LAWS.

**P**OSITIVE laws ought to be consequent of the laws of nature; this is the spirit of law.

There are only two kinds of governments—those founded on the general **rights of man**, and those founded on particular rights.

"I know only two kinds of governments—the good and the bad ; the good, which are yet to be formed ; and the bad, the grand secret of which is to draw by a variety of means the money of the governed into the pockets of the rulers."—*Helvetius' Letter to Montesquieu*.

There are two classes of governments: 1. National, in which social rights are common to all. 2. Special, establishing or recognizing particular or unequal rights. They may be said to be public and private. The ruling motive of one is publicity, and of the other mystery and secrecy.

"Magistrates, as magistrates, have only duties to perform ; citizens alone have rights."—*Parliament of Paris, October, 1788*.

No one has the right to oppose the general will of a nation when manifested in the established form.

Every existing body has the right to self-preservation, and hence a nation has the same.

The cause of conservation in a commercial association is interest and the zeal of its members.

The moving principles of each government should be analogous to the nature of the government established.

*Virtue* is the principle of a republican government, *honor* that of a monarchy, and *fear* that of a despotism.

Simple democracy is the true state of nature—it does not act by stratagems nor expedients.

The principle of preservation in the form of government is love of country and equality of rights, and, if you will, the love of peace and justice.

Individuals are to acquire authority by the exercise of their individual faculties, but never by the invasion of the rights of other individuals, or by an improper appropriation of the public wealth.

Government is like everything else ; to preserve it, you must love it.

There are three kinds of education in a country—that of parents, that of teachers, and that of the world. Those governments that are founded on reason can alone desire that education should be exempt from prejudice, profound and general. All education should be in harmony with the principles of the government.

A profound veneration for established forms, and dislike for spirit of innovation and inquiry.

The pure democratic government can in no way fear truth ; but they can fear prejudice and error. All that is good and true is in its favor.

The worst inequality in a democracy is that of talents and information.

The laws given by the legislature should be analogous to the principles of the government.

That the spirit of industry, order and economy should prevail in the nation. That the people should not be incommoded with sumptuary laws which tend to excite discontent and lead to outrage upon property and liberty. That pomp and extravagance be not encouraged as a means of obtaining public favor. That rapid fortunes may not be suffered to be amassed by the administration of the public treasury. That domestic virtue be found in every family, and then the public will maintain a corresponding character. Information should be promulgated constantly, and error and ignorance exposed and dissipated. That vice should never be represented but in a light to be abhorred.

None should be placed under restraint in communication of his ideas.

That no office should have long duration, or great emolument attached to it.

That, as social relations become more numerous and

delicate, laws governing them necessarily become more complicated.

That a representative government cannot subsist without equality and union of the citizens.

That the institution of juries is proper in a government in proportion as its principles are compatible with liberty, the love of justice and a general concern in public affairs.

That offenses are to be prosecuted by the public, and not by an individual. That provision for punishment of crimes as will prevent their repetition should be the true object of corrective justice.

That no one be permitted to employ the public arm to subserve individual passion.

That, in proportion as the government is animated by a spirit of liberty, the more mild will the punishment be. That punishments are not designated to repair evil, for that is impossible, but for the prevention of evil. That the power of pardon shall not become the privilege of certain persons or classes.

That the effect of luxury is the employment of industry in a useless and hurtful manner. That luxury relative to economy is always an evil, a continual cause of misery and weakness.

That the good of human society consists in the proper application of labor, the evil in its loss.

That a state should be possessed of sufficient power, not too weak or too strong. That the frontiers be susceptible of an easy defense. That from confederation there results less strength than intimate union.

That the spirit of a monarchy is war and aggrandizement ; the spirit of republicanism is peace and moderation. That the right of war flows from the right of defense ; that of conquest from war.

Individuals have power to make use of their individual strength in self-defense.

That representative government is founded on invariable equity and moral justice.

That a republic desirous of remaining free should have no subjects. That too much power is not to be given to a single man. That the constitution of a society is a collection of rules determining the nature, extent and limit of the authorities ruling it. That liberty is the power to do that which the mind wills, the power of executing the will.

That is the best government in which the greatest number of the people are the happiest. That social action is comprised in willing, executing and judging. That there is by right one power in society, and that is the will of the nation, or society, from which all authority flows. That no more power should be placed in the hands of the individual than can be taken from him without violence and changing of everything with him. That perfect power or liberty is perfect happiness. That we should not undertake to form a new Constitution until we shall have united all the powers of society in such as are favorable to it. That the transactions of society should suffer no interruption. That society should not permit itself to be ruled by fanatics and hypocrites. That the laws should not defend small possessions without defending great ones. That those individuals only should be excluded from elections who, on account of age, have not reached years of discretion, and those who have forfeited their right of suffrage. That the interest of an individual of society is that everything should be well conducted. That it is essential to a monarchy that the principle of national sovereignty be destroyed. That all

things must be done conformable to laws and their spirit.

That liberty of the press and of the individual are two things necessary to the happiness of society. That every person should be secure against oppression in person and goods. That errors purely religious should be corrected by purely religious means. That the principle of government, founded on the rights of man, is reason. That laws should be conformable to the laws of human nature. That the government should never suffer any attempts whatever upon the security of the citizens, nor on the right of declaring their sentiments. That the less power religious ideas possess in the political concerns of a society or country, the more virtuous, happy, free and peaceable the people will be. We cannot force ourselves to think as other persons, nor can we force ourselves to hold the same opinion on any subject.

A good law should be good for all men. When the laws of a country approach near to reason and justice, and the abuses are so trifling that no sensible advantage could be expected from a change, then a repugnance to change is reasonable. When it is supposed that there is no certain principle by which we might direct ourselves in security to the establishment of new laws, then a repugnance to change is reasonable. It is not unjust that individuals should make some sacrifice of a part of their liberty to secure the remainder. In establishing a law, if reason furnishes a principle, we should follow it ; if not, the course most congenial with public utility should be pursued. In the first, we conform to positive justice ; in the second, to relative justice.

[THE END.]

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

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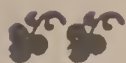
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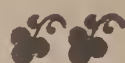
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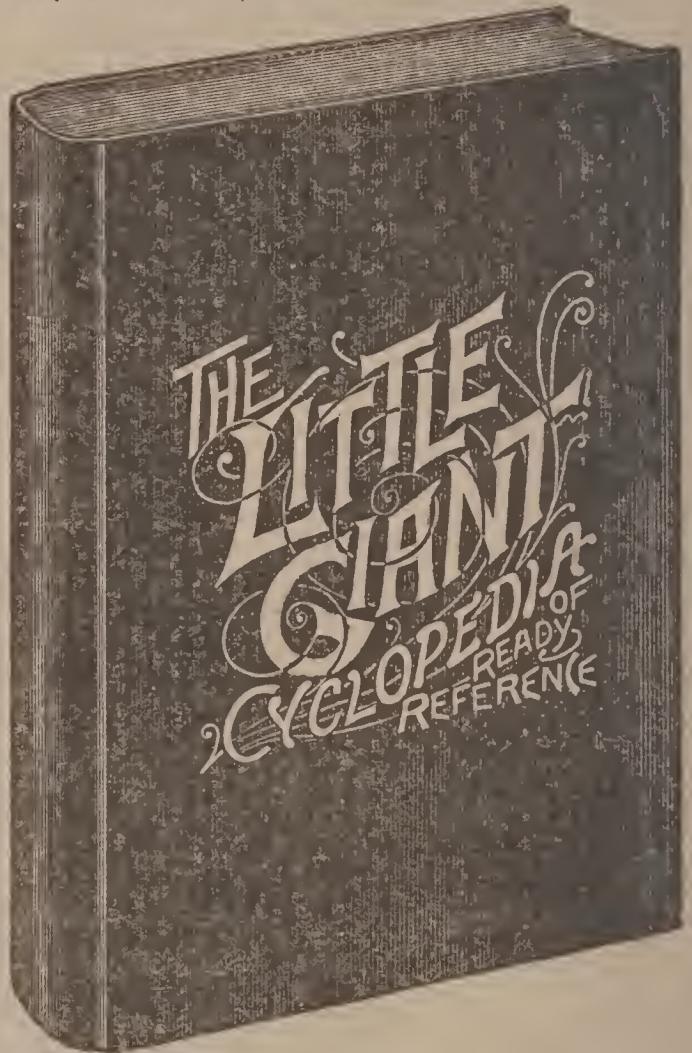
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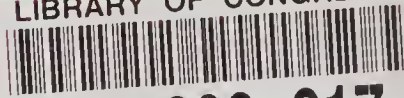








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